

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBIN A. DREW,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, THE
HONORABLE KATHY A. HARDCASTLE,
DISTRICT JUDGE, AND THE HONORABLE
MICHAEL P. VILLANI, DISTRICT JUDGE,
Respondents,

and

MANPOWER OF SOUTHERN NEVADA,
Real Party in Interest.

No. 52082

FILED

DEC 03 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ROBIN A. DREW,
Appellant,

vs.

MANPOWER OF SOUTHERN NEVADA,
Respondent.

No. 52129

ORDER DENYING PETITION FOR WRIT OF MANDAMUS AND
PROHIBITION IN DOCKET NO. 52082 AND SETTING BRIEFING
SCHEDULE IN DOCKET NO. 52129

These are an original proper person petition for a writ of mandamus or prohibition challenging a district court order declaring petitioner to be a vexatious litigant (Docket No. 52082), and a proper person appeal from a district court order denying petitions for judicial review (Docket No. 52129). These cases are not consolidated.

Docket No. 52082

Although the decision to entertain a petition for a writ of mandamus or prohibition is addressed to our sole discretion,¹ we have

¹State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 146, 42 P.3d 233, 237 (2002).

explained that neither writ will issue when petitioner has a plain, speedy, and adequate remedy in the ordinary course of law.² We have consistently explained that an opportunity to challenge an adverse decision through an appeal constitutes an adequate legal remedy precluding writ relief.³

In her writ petition, petitioner Robin Drew seeks writs of mandamus or prohibition to vacate a district court order declaring her to be a vexatious litigant. After her petition was filed, however, a final judgment was entered in the underlying action and Drew subsequently filed a notice of appeal from the final judgment in that action. This appeal is currently pending before this court in Docket No. 52129. This court has held that interlocutory orders such as the order declaring Drew to be a vexatious litigant can be challenged in the context of an appeal from a final judgment.⁴ Accordingly, because the district court order declaring Drew to be a vexatious litigant can be addressed as part of our resolution of Drew's July 22, 2008, appeal, we conclude that Drew has an adequate and speedy legal remedy and thus deny her petition for writ relief.⁵

Docket No. 52129

In Docket No. 52129, appellant Robin Drew has requested that this court allow her to supplement her civil proper person appeal statement. Respondent has not opposed this request. Having reviewed

²NRS 34.170; NRS 34.330; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

³See, e.g., Pan, 120 Nev. at 224, 88 P.3d at 841.

⁴Consolidated Generator v. Cummins Engine, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998).

⁵See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991); NRAP 21(b).

the materials filed in Docket No. 52129, we conclude that further briefing will assist this court in the resolution of the issues presented. Accordingly, we remove this appeal from the pilot program and direct Drew to file an opening brief addressing any arguments that she may have regarding the final judgment and any interlocutory orders entered by the district court in this matter, including the order declaring her to be a vexatious litigant. Drew shall have 60 days from the date of this order to file and serve her opening brief. Respondent Manpower of Southern Nevada shall have 30 days from the date of service of Drew's opening brief to file and serve its answering brief. Further, Drew shall have 30 days from the date of service of Manpower's answering brief to file and serve any reply brief.

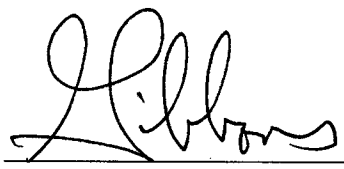
The parties' briefs shall comply with NRAP 28 and NRAP 31(b), except that, with respect to NRAP 28(a)(6) and 28(c), Drew's opening brief and reply brief need not include an attorney's certificate, and with respect to NRAP 28(e), the parties may either cite to the record on appeal or file appendices and cite to the appendices. Any appendices shall comply with NRAP 30, except that the parties are not required to confer regarding the submission of a joint appendix and Manpower is not required to comply with NRAP 30(b)(4).⁶ We caution the parties that this court may not consider any matters that occurred after the appeal was filed or that are outside of the district court record on appeal.⁷

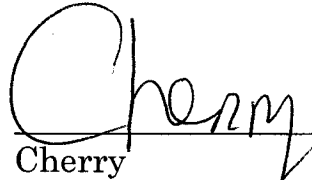
⁶See NRAP 2 (providing that this court may suspend the requirements of the NRAP in a particular case and may order proceedings in accordance with this court's direction).


⁷Carson Ready Mix v. First Nat'l Bk., 97 Nev. 474, 635 P.2d 276 (1981).

Accordingly, if the parties elect to submit appendices, the appendices shall not include any such outside materials.

It is so ORDERED.⁸


Gibbons, J.


Cherry, J.


Saitta, J.

cc: Hon. Michael Villani, District Judge
Hon. Kathy A. Hardcastle, District Judge
Robin A. Drew
Lynne & Associates
Eighth District Court Clerk

⁸We note that on August 5, 2008, October 28, 2008, and December 2, 2008, Drew submitted, in Docket No. 52082, petitions for judicial review. Because Drew notes that she has also requested leave to file the petitions in district court and because this court is not the proper court for filing a petition for judicial review, no action will be taken on these filings. The clerk of this court shall return, unfiled the petitions for judicial review, provisionally received in this court on August 5, 2008, October 28, 2008, and Decemember 2, 2008.

Additionally, in Docket No. 52129, Drew moved for stay pending this court's resolution of her appeal. While Drew indicates that she has submitted the motion to the district court, it does not appear that the district court has ruled on her stay motion. Accordingly, we deny the motion. See NRAP 8(a) (noting that a stay must ordinarily be sought first in district court).