

IN THE SUPREME COURT OF THE STATE OF NEVADA

NORMA BROWNELL,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF WASHOE, AND THE
HONORABLE DEBORAH SCHUMACHER,
DISTRICT JUDGE,

Respondents,

and

GUARDIANSHIP SERVICES OF NEVADA,
INC., AND NICHOLAS PIETROWICZ, IN
THEIR CAPACITY AS GUARDIANS OVER
THE PERSON AND ESTATE OF DOROTHY
R. BIEGLER, AND THE SAME ON THEIR
OWN BEHALF AND ON BEHALF OF ALL
OTHERS SIMILARLY SITUATED,

Real Parties in Interest.

No. 52317

FILED

OCT 30 2008

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

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order appointing real party in interest Nicholas Pietrowicz as co-guardian over the person of Dorothy R. Biegler. On October 14, 2008, petitioner timely supplemented the petition with additional materials, as directed.

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or

station,¹ or to control a manifest abuse of discretion.² The counterpart to a writ of mandamus, a writ of prohibition is available when a district court acts without or in excess of its jurisdiction.³ Mandamus and prohibition are available only when no plain, speedy, and adequate remedy in the ordinary course of law exists, and an appeal is generally considered an adequate legal remedy precluding writ relief.⁴ Both mandamus and prohibition are extraordinary remedies, and it is within this court's discretion to determine if a petition will be considered.⁵ Petitioner has the burden of demonstrating that this court's intervention by way of extraordinary relief is warranted.⁶

NRS 159.325(1) allows for immediate appeals from orders granting letters of guardianship. In determining whether an appeal is sufficiently adequate and speedy, we look to the underlying proceedings'

¹See NRS 34.160.

²See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

³State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 146-47, 42 P.3d 233, 237 (2002); NRS 34.320.

⁴NRS 34.170; NRS 34.330; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).


⁵See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

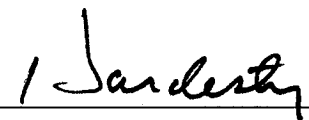
⁶See Pan, 120 Nev. at 224, 88 P.3d at 844; NRAP 21(a).

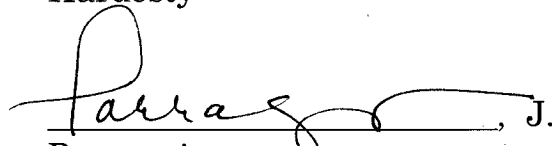
status, the issues raised, and whether the appeal would allow us to meaningfully review the issues presented, among other things.⁷

Here, the Legislature, recognizing the need for prompt review of an allegedly improper guardianship appointment, enacted NRS 159.325 to address this concern by providing for an immediate appeal. Having considered the above factors in light of the Legislature's action, we conclude that the appeal afforded to petitioner under NRS 159.325(1) constitutes a speedy and adequate remedy, precluding writ relief. Accordingly, we

ORDER the petition DENIED.⁸


_____, C.J.
Gibbons


_____, J.
Hardesty


_____, J.
Parraguirre

⁷D.R. Horton v. Dist. Ct., 123 Nev. ___, ___, 168 P.3d 731, 736 (2007).

⁸NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

cc: Hon. Deborah Schumacher, District Judge, Family Court Division
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