

IN THE SUPREME COURT OF THE STATE OF NEVADA

THEODORE J. THOMPSON,
Petitioner,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52493

FILED

FEB 05 2009

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus challenges respondent's alleged refusal to authorize surgery for petitioner's hernia while petitioner is incarcerated.¹

A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse of discretion. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). Mandamus is an extraordinary remedy, and whether a petition will be considered is within our sole discretion. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

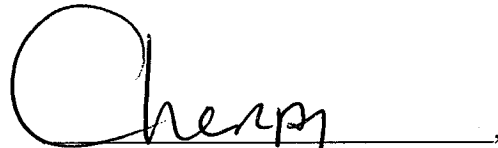
Petitioner bears the burden to demonstrate that our intervention by way of extraordinary relief is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Under NRAP 21(a), a petition for extraordinary relief must provide this court with any and all materials

¹We grant petitioner's motion to waive the filing fee for this petition, see NRAP 21(e), and we direct the clerk of this court to file petitioner's October 20, 2008, motion. No action need be taken with respect to petitioner's October 14 and 16, 2008, notices.

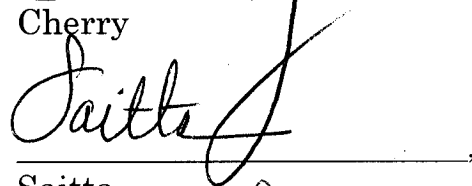
that are "essential to an understanding of the matters set forth in the petition." NRAP 21(a).

Here, petitioner has included no documentation to support his allegations that he has a hernia, that it requires surgery, and that respondent has failed to authorize any necessary medical treatment. Absent such documentation, we cannot evaluate the merits of this petition. Accordingly, our intervention by way of extraordinary relief is not warranted, see NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851, and we

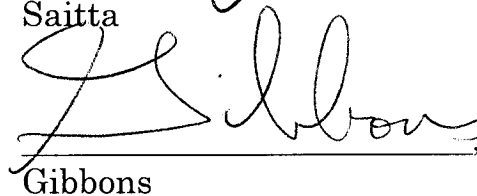
ORDER the petition DENIED.

 _____ J.

Cherry

 _____ J.

Saitta

 _____ J.

Gibbons

cc: Theodore J. Thompson
Attorney General Catherine Cortez Masto/Carson City