

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEXANDER CURREN,
Petitioner,

vs.

THE FIFTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF NYE,
AND, THE HONORABLE ROBERT W.
LANE, DISTRICT JUDGE,

Respondents,

and

ABEGAIL AVILA,
Real Party in Interest.

No. 52550

FILED

NOV 19 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus challenges the district court's alleged refusal to enforce a justice court oral order directing the real party in interest to return certain furniture and other items that petitioner asserts are his.

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.¹ Mandamus is an extraordinary remedy, and whether a petition will be considered is within our sole discretion.²

¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

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

Petitioner bears the burden to demonstrate that our intervention by way of extraordinary relief is warranted.³ Under NRAP 21(a), a petition for extraordinary relief must contain, among other things, statements of “the facts necessary to an understanding of the issues presented by the application,” the issues presented and the relief sought, and the reasons why the writ should issue.⁴ Thus, because petitioner bears the burden of demonstrating that extraordinary relief is warranted,⁵ he must provide this court with any and all materials that are “essential to an understanding of the matters set forth in the petition.”⁶ A petition must also be supported by an affidavit of the party beneficially interested⁷ and must be served upon the respondent judge and all parties to the district court action.⁸

Here, petitioner failed to include a supporting affidavit or a certificate of service, demonstrating that the petition was properly served. Also, while petitioner included justice court transcripts establishing that the justice court issued an oral order to the real party in interest to return the furniture, he did not include copies of any written orders from either the justice court or the district court, or indeed any documentation from

³Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

⁴See id., at 228-29, 88 at 844.

⁵Id.

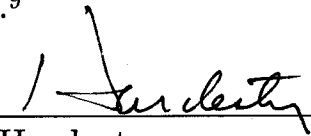
⁶NRAP 21(a).

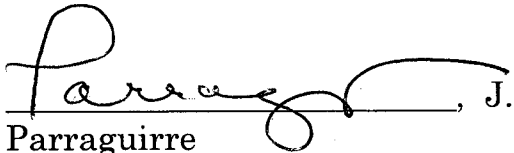
⁷NRS 34.170; NRS 34.330.


⁸NRAP 21(a).

the district court proceedings. Accordingly, we cannot evaluate whether the district court failed to perform any legal duty or manifestly abused its discretion in any way. We therefore

ORDER the petition DENIED.⁹


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Robert W. Lane, District Judge
Alexander Curren
Abegail Avila
Nye County Clerk

⁹NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851.