

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES EDWARD KIMSEY,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ELISSA F. CADISH, DISTRICT JUDGE,
Respondents,
and
CYBERVIEW TECHNOLOGY, INC.,
Real Party in Interest.

No. 52931

FILED

JAN 09 2009

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

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This original proper person petition for a writ of prohibition seeks a writ prohibiting “the consideration and issuance of certain orders and warrants of arrest on a civil matter.”

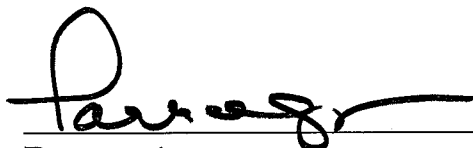
A writ of prohibition is available to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court’s jurisdiction. NRS 34.320. Prohibition is an extraordinary remedy, however, and whether a petition will be considered is within our discretion. See 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).

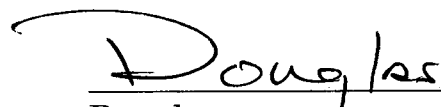
Under NRAP 21(a), a petition for extraordinary relief must contain, among other things, statements of “the facts necessary to an understanding of the issues presented by the application,” the issues presented and the relief sought, and the reasons why the writ should issue. See Pan, 120 Nev. at 228-29, 88 P.3d at 844. Thus, because petitioner bears the burden of demonstrating that extraordinary relief is

warranted, he must provide this court with any and all materials that are “essential to an understanding of the matters set forth in the petition.” NRAP 21(a). A petition must also be supported by an affidavit of the party beneficially interested, see NRS 34.330, and must be served upon the respondent judge and all parties to the district court action, NRAP 21(a).

Here, petitioner failed to include a supporting affidavit and failed to serve the respondent judge. Also, petitioner did not include copies of any documentation from the district court proceedings. Finally, the petition does not contain a clear statement of facts, and indeed, it does not even specify the nature of the underlying action or what district court orders or actions petitioner seeks to challenge. Accordingly, we cannot evaluate whether the district court engaged in any conduct in excess of its jurisdiction. We therefore

ORDER the petition DENIED.¹


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Pickering

¹We grant petitioner’s request to waive the filing fee for this petition; accordingly, no fee is due. NRAP 21(e).

cc: Hon. Elissa F. Cadish, District Judge
James Edward Kimsey
Gordon & Silver, Ltd.
Eighth District Court Clerk