

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY O. GARMONG,  
Petitioner,

vs.

THE THIRD JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF LYON,  
AND THE HONORABLE ROBERT E.  
ESTES, DISTRICT JUDGE,

Respondents,

and

GRAHAM ROGNEY,  
Real Party in Interest.

No. 52974

**FILED**

DEC 31 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. 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's oral ruling purportedly granting real party in interest's motion for summary judgment.

Both mandamus and prohibition are extraordinary remedies, and whether a petition will be considered is within our discretion.<sup>1</sup> Petitioner bears the burden to demonstrate that our intervention by way of extraordinary relief is warranted.<sup>2</sup> Having considered this petition and its supporting documentation, we are not persuaded that our intervention by way of extraordinary relief is warranted.

Specifically, a writ may be issued only when petitioner has no plain, speedy, and adequate legal remedy,<sup>3</sup> and this court has consistently

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<sup>1</sup>See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

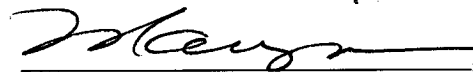
<sup>2</sup>Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

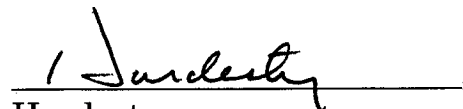
<sup>3</sup>NRS 34.170; NRS 34.330.

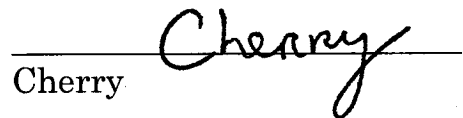
held that an appeal is an adequate legal remedy that will preclude writ relief.<sup>4</sup> In this case, according to petitioner, trial in the underlying action is scheduled to commence on January 5, 2009. Thus, given that trial is imminent, petitioner has an adequate and speedy legal remedy available in the form of an appeal from any adverse final judgment entered in the underlying case, and petitioner has not demonstrated otherwise.<sup>5</sup>

Accordingly, we

ORDER the petition DENIED.<sup>6</sup>

 C.J.  
Maupin

 J.  
Hardesty

 J.  
Cherry

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<sup>4</sup>See Pan, 120 Nev. at 224, 88 P.3d at 841.

<sup>5</sup>Id.

<sup>6</sup>Petitioner's failure to include with his petition a copy of a "written, signed, and filed" district court order memorializing the decision that petitioner is challenging or even a statement similar to that identified in NRAP 9(d) constitutes an independent basis on which to deny the relief requested. State, Div. Child & Fam. Servs. v. Dist. Ct., 120 Nev. 445, 454, 92 P.3d 1239, 1245 (2004) (noting that district court orders dealing "with the procedural posture or merits of the underlying controversy, must be written, signed, and filed before they become effective"); see NRAP 21(a) (providing that a petition for a writ of mandamus or prohibition "shall contain . . . copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition").

cc: Hon. Robert E. Estes, District Judge  
Les W. Bradshaw  
Law Offices of Mark Wray  
Lyon County Clerk