

IN THE SUPREME COURT OF THE STATE OF NEVADA

HOLLY ANN LAKE,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
STEVEN P. ELLIOTT, DISTRICT
JUDGE,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 54098

FILED

AUG 12 2009

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

ORDER DENYING PETITION

This original petition for a writ of mandamus challenges a district court order providing for the involuntary medication of petitioner in an attempt to restore her to competency to stand trial on a felony charge.

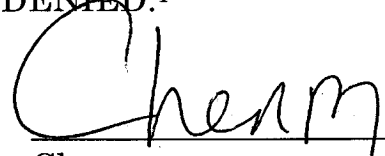
A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust or station, NRS 34.160, or to control an arbitrary or capricious exercise of discretion. See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). A writ of mandamus will not issue, however, if petitioner has a plain, speedy and adequate remedy in the ordinary course of law. See NRS 34.170. Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177,


1178 (1982); see also State ex rel. Dep't Transp. v. Thompson, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983).


Although we agree that petitioner has no plain, speedy and adequate remedy in the ordinary course of law to challenge the district court's order, we are not convinced that our intervention by way of extraordinary relief is warranted at this time. In particular, the district court considered the evidence presented and applied the four-prong test set forth in Sell v. United States, 539 U.S. 166, 179-81 (2003), which requires the State to demonstrate that the course of involuntary medication sought is (1) "necessary significantly to further important governmental trial-related interests," (2) "substantially likely to render the defendant competent to stand trial" while being "substantially unlikely to have side effects that will interfere significantly with the defendant's ability to assist counsel in conducting a trial defense," (3) necessary to further the state's trial-related interests in that "any alternative, less intrusive treatments are unlikely to achieve substantially the same results," and (4) medically appropriate in that administration of the drugs is "in the patient's best medical interest in light of his medical condition." The district court also acknowledged during the proceedings that under Sell, the involuntary administration of medication cannot be taken lightly. The district court entered an order with specific findings, directions as to medications and dosages that may be administered, and a reasonable time limit on the involuntary administration of medication. Under the circumstances, we are not convinced that the district court failed to take action required by the law or exercised its discretion in an

arbitrary or capricious manner. Accordingly, we decline to intervene at this time and therefore

ORDER the petition DENIED.¹


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Steven P. Elliott, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

¹Given our decision, we deny petitioner's motion for a stay of the district court's order. We express no opinion as to whether the State will be able to meet its burden under Sell to justify the involuntary administration of medication beyond that authorized in the district court's June 25, 2009, order.