

IN THE SUPREME COURT OF THE STATE OF NEVADA

TOPAZ LODGE & CASINO,
Petitioner,

vs.

THE NINTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF DOUGLAS, AND THE
HONORABLE DAVID R. GAMBLE,
DISTRICT JUDGE,

Respondents,

and

BEATRICE A. REEMELIN, AN INDIVIDUAL,
Real Party in Interest.

No. 54731

FILED

NOV 13 2009

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

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This is an original petition for a writ of mandamus or prohibition challenging a district court order that granted a petition for judicial review and remanded the matter to the agency in a workers' compensation action.

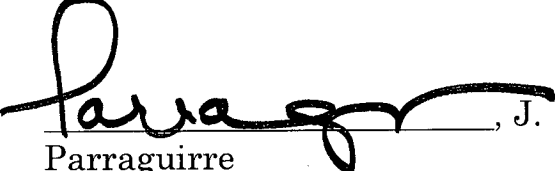
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). The counterpart to a writ of mandamus, a writ of prohibition, is available when a district court acts without or in excess of its jurisdiction. NRS 34.320. Neither writ will issue when the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (recognizing that the right to appeal is generally an adequate legal remedy precluding writ relief). Whether a petition for a writ of mandamus or prohibition will

09-27642

be considered is purely discretionary with this court. See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the burden of demonstrating that such extraordinary relief is warranted. Pan, 120 Nev. at 228, 88 P.3d at 844.

Having considered the petition and supporting documents, we are not satisfied that our intervention by way of extraordinary relief is warranted, and thus, we deny the petition. Smith, 107 Nev. at 677, 818 P.2d at 851; NRAP 21.

It is so ORDERED.


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. David R. Gamble, District Judge
McDonald Carano Wilson LLP/Reno
Beatrice A. Reemelin
Douglas County Clerk