

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES WHEATON,
Petitioner,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55237

FILED

FEB 03 2010

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

ORDER DENYING PETITION

This is a proper person petition for a writ of mandamus. Petitioner seeks an order of this court compelling his former attorneys to transfer to him his entire case file. Pursuant to NRS 7.055(1)

An attorney who has been discharged by his client shall, upon demand and payment of the fee due from the client, immediately deliver to the client all papers, documents, pleadings and items of tangible personal property which belong to or were prepared for that client.

If a client does not receive the appropriate documents from his attorney, NRS 7.055(2) further provides that the appropriate remedy is for a client to seek an order of the district court for the production of all papers, documents, pleadings, and other property.

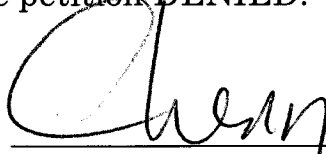
Here, petitioner claims that his former attorneys have failed to provide him with a copy of his case file, despite his repeated requests. He further seeks an order of this court compelling the production of all papers, documents, and pleadings.


Having reviewed the documents submitted in this matter, and without deciding upon the merits of any claims, we decline to exercise

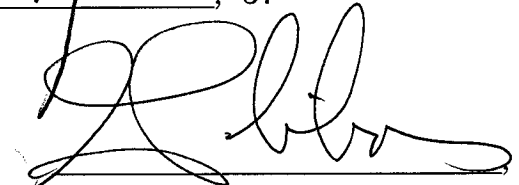
original jurisdiction in this matter. NRS 34.160; NRS 34.170. It appears that on August 6, 2009, petitioner obtained an order of the district court pursuant to NRS 7.055(2) compelling the production of his case file. If his attorneys fail to produce petitioner's case file, the appropriate remedy for petitioner is to seek relief in the district court.¹

Accordingly, we

ORDER the petition DENIED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: James Wheaton
Hon. Douglas Herndon
Mace Yampolsky/Mace J. Yampolsky & Associates
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹We note that pursuant to NRS 7.055(2),

If the court finds that an attorney has, without just cause, refused or neglected to obey its order given under this section, the court may, after notice and hearing, adjudge the attorney guilty of contempt and may fine or imprison him until the contempt is purged. If the court finds that the attorney has, without just cause, withheld the client's papers, documents, pleadings or other property, the attorney is liable for costs and attorney's fees.