

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRAIG MCKINNEY,  
Petitioner,

vs.

THE THIRD JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF CHURCHILL; AND THE  
HONORABLE LEON ABERASTURI,  
DISTRICT JUDGE,

Respondents,


and

ROGER WOLFE,  
Real Party in Interest.

No. 57486

**FILED**

JAN 10 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

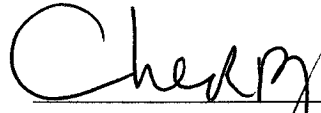
This original proper person petition for a writ of mandamus challenges a district court order evicting petitioner from his residence.


The writ of mandamus is an extraordinary remedy, and the decision to entertain a petition requesting such relief is addressed solely to this court's discretion. See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). Petitioner bears the burden of demonstrating that this court's intervention by way of extraordinary relief is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).


After reviewing this petition and its supporting documentation, we are not persuaded that this court's intervention by way of extraordinary writ relief is warranted. Specifically, petitioner failed to include with his petition parts of the district court record "essential to understand the matters set forth in the petition," NRAP 21(a)(4), including copies of real party in interest's reply to petitioner's counterclaim and first amended counterclaims and any other documents

real party in interest filed in the district court, except his trial brief.<sup>1</sup> Accordingly, we deny the petition.<sup>2</sup> NRAP 21(b)(1); Smith, 107 Nev. 674, 818 P.2d 849.

It is so ORDERED.<sup>3</sup>

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Pickering

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<sup>1</sup>It appears from the petition that the challenged district court order is the final judgment in the district court action. If so, the availability of an appeal from that order constitutes an adequate legal remedy precluding writ relief. See NRAP 3A(b)(1); NRS 34.170; Pan, 120 Nev. at 224, 88 P.3d at 841.

<sup>2</sup>Under certain conditions, NRS 40.251(2) allows a tenant who is “60 years of age or older or has a physical or mental disability” to request to remain in his residence for an additional 30 days from the date of his unlawful detainer. It appears from the documents before this court that relief under NRS 40.251(2) may be available to petitioner, but it is unclear whether the district court has considered any argument with respect to that statute. Although we deny writ relief, the district court should consider whether it applies to petitioner; our denial is without prejudice as to any claims petitioner may have under NRS 40.251(2).

<sup>3</sup>We deny petitioner’s request to proceed in forma pauperis as moot, since he was granted in forma pauperis status in the district court. No filing fee is due. And in light of this order, we deny as moot petitioner’s request for a stay.

cc: Hon. Leon Aberasturi, District Judge  
Craig McKinney  
James F. Sloan  
Churchill County Clerk