

IN THE SUPREME COURT OF THE STATE OF NEVADA

RADESA WADE,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MICHELLE LEAVITT, DISTRICT
COURT,

Respondents,

and

RYAN CARPENTER,
Real Party in Interest.

No. 57886

FILED

FEB 24 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of mandamus challenging the district court's refusal to enter a final judgment without requiring petitioner to stipulate to the dismissal of her claims.

The underlying case arose from an automobile accident in which real party in interest Ryan Carpenter allegedly drove into and injured petitioner Radesa Wade. The parties initially engaged in pre-litigation settlement negotiations; however, Wade eventually filed suit against Carpenter for negligence.

Upon being sued, Carpenter filed a motion to enforce the purported settlement agreement that resulted from his pre-litigation negotiations with Wade. Based on that motion, the district court entered a written order finding that an enforceable pre-litigation settlement agreement existed between the parties, and, pursuant to the terms of the settlement agreement, the court required Wade to execute a release in exchange for a settlement payment of \$25,000. Importantly, the district



court never entered a final judgment resolving the matter. When Wade requested such judgment for the purpose of filing an appeal in this court, the district court orally ordered her to sign both a stipulation for dismissal and a release. Wade ultimately signed a release, but the parties never resolved the form of the stipulation or judgment to be entered by the district court. Wade subsequently filed this petition seeking relief from the district court's oral order out of concern that her compliance would result in a waiver of her appellate rights.

This court has stated that “[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.” Williams v. Dist. Ct., 127 Nev. ___, ___, 262 P.3d 360, 364 (2011) (quoting International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008)); NRS 34.160. “Writs of mandamus . . . are generally available when no plain, speedy, and adequate legal remedy exists.” We the People Nevada v. Secretary of State, 124 Nev. 874, 879-80, 192 P.3d 1166, 1170 (2008); Williams, 127 Nev. at ___, 262 P.3d at 364; NRS 34.170. “[T]he opportunity to appeal a final judgment typically provides an adequate legal remedy.” Williams, 127 Nev. at ___, 262 P.3d at 364. “[W]hether a [writ] petition will be considered is within our sole discretion.” We the People Nevada, 124 Nev. at 880, 192 P.3d at 1170.

Generally, a district court's oral dispositional order lacks clarity and is subject to misinterpretation, making it an ineffective order and incapable of “meaningful appellate review.” State, Div. Child & Fam. Servs. v. Dist. Ct., 120 Nev. 445, 454-55, 92 P.3d 1239, 1245 (2004). To be effective “dispositional court orders that are not administrative in

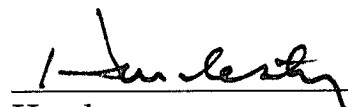
nature, but deal with the procedural posture or merits of the underlying controversy, must be written, signed, and filed before they become effective.” Id. at 454, 92 P.3d at 1245.


Here, we conclude that the district court’s oral order that essentially disposed of the substantive issues in the case is ineffective because it was never written, signed and filed. Because the oral order is ineffective, no judgment has been entered, and this court’s review would not promote sound judicial economy, we decline to exercise our discretion to consider Wade’s writ petition at this time. Moreover, once the district court enters a final, written judgment resolving the matter, Wade will have an adequate remedy at law. See Williams, 127 Nev. at ___, 262 P.3d at 364.

Accordingly, we

ORDER the petition DENIED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Michelle Leavitt, District Judge
Seegmiller & Associates
Atkin Winner & Sherrod
Eighth District Court Clerk