


IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ROSKY,
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
WARDEN, NEVADA STATE PRISON;
AND THE STATE OF NEVADA,
Real Parties in Interest.

No. 58007

FILED

MAY 10 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK


ORDER DENYING PETITION

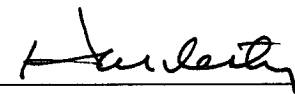
This original petition for a writ of mandamus or prohibition challenges an order of the district court denying petitioner John Rosky's request to subpoena a witness at an evidentiary hearing on Rosky's post-conviction habeas petition. Rosky claims that the district court's decision violates his Sixth Amendment right to confront his accuser, but the right he describes is a trial right, Sheriff v. Witzenburg, 122 Nev. 1056, 1060, 145 P.3d 1002, 1004 (2006), and Rosky has been tried, convicted, and sentenced. Further, a writ of mandamus will not issue if a petitioner has a plain, speedy and adequate remedy in the ordinary course of law. See NRS 34.170. Rosky has an adequate remedy at law by way of appeal from

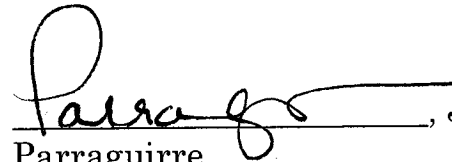
the district court's order disposing of his post-conviction petition. See NRS 34.575. We therefore conclude that our intervention is not warranted.

Accordingly, we

ORDER the petition DENIED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Steven P. Elliott, District Judge
Mary Lou Wilson
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk