

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAMAR HARRIS,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
DONALD M. MOSLEY, DISTRICT
JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 58934

FILED

SEP 14 2011

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

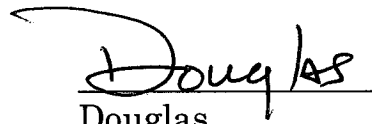
ORDER DENYING PETITION

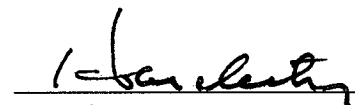
This original petition for a writ of mandamus or prohibition challenges an order of the district court denying petitioner Lamar Harris' motion to present expert eyewitness identification testimony. Having considered the petition and supporting documents, we are not satisfied that this court's intervention by way of extraordinary writ is warranted for the following reasons. First, we are unpersuaded that the district court acted arbitrarily or capriciously in denying Harris' motion and mandamus will not issue "to control judicial discretion or to review the propriety of judicial action." Pinana v. Dist. Ct., 75 Nev. 74, 75, 334 P.2d 843, 843 (1959). Second, writ relief is unavailable as Harris has a plain, speedy, and adequate remedy in the ordinary course of the law by way of direct appeal should he be convicted. See NRS 34.170; NRS 34.330; cf. Marquis & Aurbach v. Dist. Ct., 122 Nev. 1147, 1154-55, 146 P.3d 1130, 1135-36

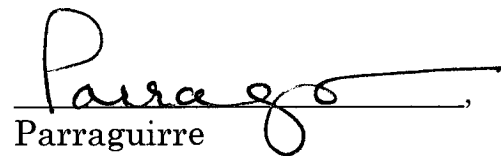
(2006) (mandamus will issue if district court judgment not independently appealable).

Accordingly, we

ORDER the petition DENIED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Donald M. Mosley, District Judge
Justice Law Center
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk