

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN R. HALVERSON; EMERY  
SLAYDEN; RAPHAEL ROCCO; JADIE  
HILL; GREGORY HAMILTON; AND  
MAJOR JAMES GREEN,

Petitioners,

vs.

RENEE BAKER, WARDEN, ELY STATE  
PRISON; THE SEVENTH JUDICIAL  
DISTRICT COURT OF THE STATE OF  
NEVADA, IN AND FOR THE COUNTY  
OF WHITE PINE; AND THE STATE OF  
NEVADA,

Respondents.

No. 59429

**FILED**

**FEB 15 2013**

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

ORDER DENYING PETITION

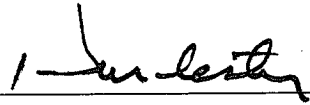
This is a proper person original petition for a writ of mandamus seeking to have this court compel prison officials to return petitioners' legal documents. As directed, respondents have filed an answer.

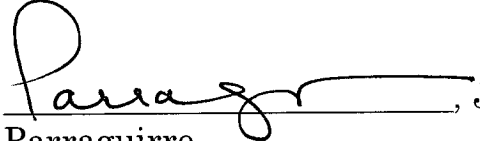
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). It is within our discretion to determine if a writ petition will be considered. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

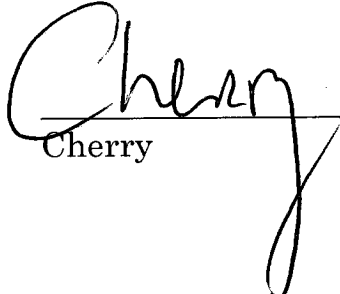
In their answer, respondents have disputed a number of the factual statements underlying this writ petition. As these factual matters

are not established by petitioners' exhibits, we decline to exercise our discretion to issue writ relief in this matter. See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981) ("When disputed factual issues are critical in demonstrating the propriety of a writ of mandamus, the writ should be sought in the district court, with appeal from an adverse judgment to this court."); see also Pan, 120 Nev. at 228, 88 P.3d at 844 (explaining that it is the petitioner's burden to demonstrate that writ relief is warranted). Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

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

cc: Emery Slayden  
Gregory Hamilton  
Jadie Hill  
Major James Green  
Raphael P. Rocco  
Steven R. Halverson  
Attorney General/Carson City  
Attorney General/Ely