

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN CARTER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 59475

FILED

MAR 07 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *H. Ingraham*  
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from an order of the district court denying appellant's petition for a writ of mandamus.<sup>1</sup> Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

In his petition, appellant sought a writ to compel the Nye County Sheriff to produce appellant's criminal records pursuant to NRS chs. 179A and 239. Appellant attached to his petition below the sheriff's response to his request that, per department policy, it would not release any records that pertain to juveniles for any reason. Appellant's victim was a juvenile. We review the district court's decision for an abuse of discretion. DR Partners v. Bd. of County Comm'rs, 116 Nev. 616, 621, 6 P.3d 465, 468 (2000).

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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

NRS 179A.100(7)(a) provides that “[r]ecords of criminal history must be disseminated by an agency of criminal justice, upon request, to the . . . person who is the subject of the record of criminal history for the purposes of NRS 179A.150.” NRS 179A.070 defines “record of criminal history.” NRS 239.010(1) provides that

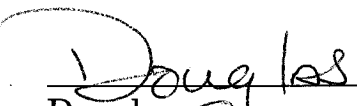
all public books and public records of a governmental entity, the contents of which are not otherwise declared by law to be confidential, must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records.


NRS 239.0107 sets out the obligations of the responding public entity, and NRS 239.010(3) specifically prohibits the entity from declining to release records containing confidential information “if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.”

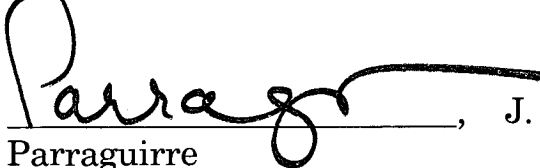
The district court provided no reasoning as to why it denied appellant’s petition. Further, because the district court did not order a response from respondent, we cannot determine whether the district court properly exercised its discretion in denying the petition. See Massey v. Sunrise Hospital, 102 Nev. 367, 371, 724 P.2d 208, 210 (1986) (“A court's failure to exercise discretion (when available) is error.”). We therefore

ORDER the judgment of the district court REVERSED AND

REMAND this matter to the district court for proceedings consistent with this order.<sup>2</sup>

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

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

cc: Kimberly A. Wanker, District Judge  
Ryan Carter  
Nye County District Attorney  
Attorney General/Carson City  
Nye County Clerk

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<sup>2</sup>It is unclear to this court why the district court clerk elected to file appellant's petition in his criminal case when it appears to be a civil matter.

We have considered all proper person documents filed or received in this matter. We conclude that appellant is only entitled to the relief described herein.