

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL KINSHELLA AND JESSE
MOFFETT,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF

CLARK; AND THE HONORABLE
DOUG SMITH, DISTRICT JUDGE,

Respondents,

and

THE STATE OF NEVADA,

Real Party in Interest.

No. 59681

FILED

JAN 12 2012

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

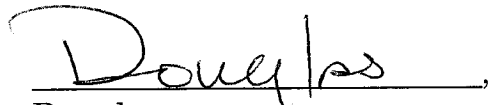
ORDER DENYING PETITION

This original petition for a writ of mandamus challenges the district court's decision denying a motion to dismiss criminal charges on the grounds that certain provisions in NRS chapter 453A, related to medical marijuana, are unconstitutionally vague and overbroad.¹ We decline to exercise our discretion to consider the petition, see State ex rel. Dep't Transp. v. Thompson, 99 Nev. 358, 662 P.2d 1338 (1983) (explaining that extraordinary writ petitions are addressed to this court's sound discretion), because (1) petitioners have a plain, speedy, and adequate


¹The petition was filed by Daniel Kinshella. Thereafter, codefendant Jesse Moffett filed a joinder in the petition. The joinder indicates that Moffett seeks to join in the petition, but it erroneously refers to Moffett as a real party in interest rather than a petitioner. The clerk of this court shall add Moffett to the caption in this proceeding as a petitioner, consistent with the caption on this order.

remedy in the ordinary course of law,² NRS 34.170 (providing that mandamus generally is not available if petitioner has plain, speedy, and adequate remedy in ordinary course of law), and (2) the petition does not present any circumstances that reveal urgency or a strong necessity for this court's pretrial intervention despite the availability of an effective alternative remedy, see Salaiscooper v. Dist. Ct., 117 Nev. 892, 901-02, 34 P.3d 509, 515-16 (2001). Accordingly, we

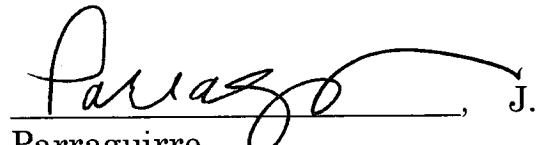
ORDER the petition DENIED.

 J.

Douglas

 J.

Gibbons

 J.

Parraguirre

cc: Hon. Doug Smith, District Judge
Cristalli & Saggese, Ltd.
Gordon & Silver, Ltd.
Brown Brown & Premsrirut
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²Specifically, if petitioners are convicted, they can appeal from the judgment of conviction, NRS 177.015(3), and in that appeal, may challenge any intermediate decisions by the district court, NRS 177.045, including the district court's denial of the motion to dismiss.