

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES S. TATE, JR., M.D.,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
NANCY L. ALLF, DISTRICT JUDGE,
Respondents,

and

THE STATE OF NEVADA BOARD OF
MEDICAL EXAMINERS,
Real Party in Interest.

No. 60057

FILED

FEB 10 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malone*
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order granting a change of venue.

A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Mandamus is not available when the petitioner has a plain, speedy, and adequate remedy at law, NRS 34.170, and this court has consistently held that an appeal is generally an adequate legal remedy precluding writ relief. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). Likewise, writ relief is not available when a party has failed to timely appeal from an otherwise appealable order. Id. at 224-25, 88 P.3d at 841.

Having reviewed the petition and its supporting documents, we are not persuaded that writ relief is warranted. In particular, petitioner has an adequate remedy in the form of an appeal from an order

changing venue. NRAP 3A(b)(6)(A) (providing that an order changing the place of trial may only be challenged by timely direct appeal from the order); see also State v. District Court, 52 Nev. 379, 394-95, 287 P. 957, 960 (1930) (treating “change of venue” as synonymous with “change of place of trial” and concluding that an order concerning change of venue is appealable). Thus, our intervention by way of extraordinary writ relief is not warranted, even if the time for filing a notice of default from the challenged order has expired. Pan, 120 Nev. at 224-25, 88 P.3d at 841. Accordingly, we

ORDER the petition DENIED.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. Nancy L. Alf, District Judge
Law Office of Jacob L. Hafter & Associates
Bradley O. Van Ry
Eighth District Court Clerk