

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN A. SANGSTER,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
JENNIFER P. TOGLIATTI, DISTRICT  
JUDGE,

Respondents,

and

THE HONORABLE JENNIFER P.  
TOGLIATTI, DISTRICT JUDGE,  
Real Party in Interest.

No. 61125

FILED

OCT 09 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *A. Angoral*  
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is a proper person petition for a writ of mandamus and for “de novo judicial review” challenging the district court’s dismissal of a petition for a writ of mandamus.


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). Writ relief is generally not available, however, when the petitioner has a plain, speedy, and adequate remedy at law. See NRS 34.170; International Game Tech., 124 Nev. at 197, 179 P.3d at 558. 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).


Having considered the petition and the attached documents, we conclude that petitioner has not demonstrated that extraordinary relief

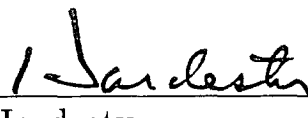
is warranted. In particular, to the extent that petitioner seeks review of the district court's dismissal of his petition for a writ of mandamus, writ relief is not appropriate because petitioner had an adequate legal remedy in the form of an appeal from the dismissal. See NRAP 3A(b)(1) (providing for an appeal from a final judgment); Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (explaining that a final judgment "disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney's fees and costs"); see also Pan, 120 Nev. at 224-25, 88 P.3d at 841 (explaining that generally, an appeal is an adequate legal remedy precluding writ relief, and writ relief cannot be used to correct untimely notices of appeal).

Further, insofar as petitioner seeks an order compelling the district court to file documents that he submitted, the exhibits to the writ petition demonstrate that petitioner submitted those documents directly to the chambers of the chief judge of the Eighth Judicial District Court, rather than filing them with the district court clerk. Thus, writ relief also is not warranted in this regard because petitioner has not demonstrated that he has been precluded from filing documents in the district court, if he follows the proper filing procedure. Accordingly, we deny the petition. See NRAP 21(b)(1); Smith, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Pickering

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

cc: Hon. Jennifer P. Togliatti, District Judge  
Brian A. Sangster  
Attorney General/Carson City  
Eighth District Court Clerk