

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK PERKINS,  
Petitioner,  
vs.  
THE FIFTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF NYE;  
AND THE HONORABLE ROBERT W.  
LANE, DISTRICT JUDGE,  
Respondents,  
and  
NYE COUNTY DISTRICT ATTORNEY,  
Real Party in Interest.

No. 61580

**FILED**

APR 11 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Angelou*  
DEPUTY CLERK

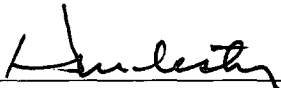
ORDER DENYING PETITION FOR  
WRIT OF MANDAMUS OR WRIT OF PROHIBITION


This is an original proper person petition for a writ of mandamus or prohibition seeking an order prohibiting the district court from continuing to preside over petitioner's criminal action.

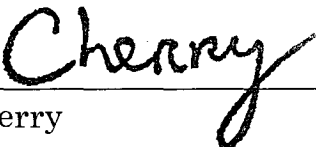
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. See NRS 34.320; Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is within our sole discretion to determine if a writ petition will be considered. Id. 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 our intervention by way of extraordinary relief is warranted. See NRS 34.160; NRS 34.320; Pan, 120 Nev. at 228, 88 P.3d at 844. Specifically, petitioner failed to demonstrate that the district court denied a motion to disqualify, made in compliance with the statute. See NRS 1.235(1) (requiring that an affidavit in support of a motion to disqualify a district court judge “be accompanied by a certificate of the attorney of record that the affidavit is filed in good faith” if the party seeking disqualification is represented by counsel). Accordingly, we

ORDER the petition DENIED.<sup>1</sup>

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

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

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

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<sup>1</sup>We direct the clerk of this court to file petitioner’s August 28, 2012, motion to waive the filing fee and we conclude that no action is necessary on this motion as the filing fee has since been paid. We also direct the clerk of this court to file petitioner’s January 4, 2013, letter; January 7, 2013, letter; and January 30, 2013, notice, and we conclude that no action is necessary on these documents. Lastly, we direct the clerk of this court to file petitioner’s August 29, 2012, documents, which we have considered in resolving this petition.

cc: Hon. Robert W. Lane, District Judge  
Mark Harrison Perkins  
Nye County District Attorney  
Nye County Clerk