

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY O. GARMONG,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
PATRICK FLANAGAN, DISTRICT
JUDGE,

Respondents,

and

GARY R. SILVERMAN; MARY ANNE
DECARIA; MICHAEL V. KATTLEMAN;
AND THE LAW FIRM OF SILVERMAN,
DECARIA & KATTELMAN,
Real Parties in Interest.

No. 62565

FILED

APR 12 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

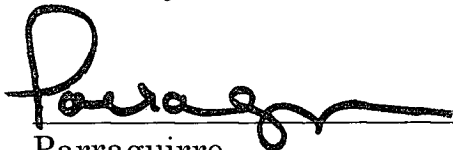
This is an original petition for a writ of mandamus that challenges a district court order denying a motion to disqualify a judge.

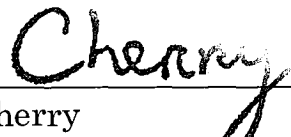
“A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion.” International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (citations omitted); see NRS 34.160. It is within this court’s discretion to determine whether 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 this court’s extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

A writ of mandamus is the appropriate vehicle for challenging a district court order denying a motion to disqualify a judge. Towbin Dodge, LLC v. Dist. Ct., 121 Nev. 251, 254-55, 112 P.3d 1063, 1066 (2005). Having reviewed this petition and the supporting documents, we are not persuaded that the district court's order warrants reversal. Accordingly, petitioner has not demonstrated that our intervention by way of extraordinary relief is warranted, NRAP 21(b)(1); Smith, 107 Nev. at 677, 818 P.2d at 851, and we

ORDER the petition DENIED.¹


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Patrick Flanagan, District Judge
Carl M. Hebert
Lemons, Grundy & Eisenberg
Washoe District Court Clerk

¹We express no opinion regarding the district court's discovery and summary judgment orders. In light of this order, we deny petitioner's March 28, 2013, motion for a temporary stay.