

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID AUGUST KILLE, SR.,
Petitioner,
vs.
C/O MRS. JENKINS,
Respondent.

No. 63693

FILED

SEP 19 2013


TRACIE K. LINDEMAN
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BY R. Malone
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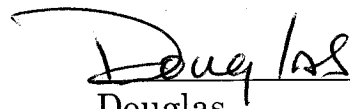
*ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION*

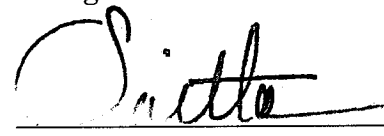
This is a proper person petition for a writ of mandamus or prohibition seeking an order directing the district court to calendar petitioner's case for trial.

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; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 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. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is within this court's sole discretion to determine if a writ petition will be considered. *Smith*, 107 Nev. at 677, 818 P.2d at 851. Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition, we conclude that our intervention by way of extraordinary writ relief is not warranted. *See Smith*, 107 Nev. at 677, 818 P.2d at 851; NRAP 21(b)(1). Accordingly, we ORDER the petition DENIED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: David August Kille, Sr.
Attorney General/Carson City
Pershing County Clerk