

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD BRANDON COMBS,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; THE HONORABLE CAROLYN
ELLSWORTH, DISTRICT JUDGE; AND
THE LAS VEGAS TOWNSHIP JUSTICE
COURT, COUNTY OF CLARK, STATE
OF NEVADA; AND THE HONORABLE
ANN ZIMMERMAN, JUSTICE OF THE
PEACE.
Respondents,
FEDERAL NATIONAL MORTGAGE
ASSOCIATION,
Real Party in Interest.

No. 64267

FILED

NOV 04 2013

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

*ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION*


This original proper person petition for a writ of mandamus or, alternatively, prohibition, challenges the constitutionality of NRS 40.300, which authorizes a justice court to issue a temporary writ of restitution.

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; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition may be warranted when the district court exceeds its jurisdiction. NRS 34.320. Either writ is an extraordinary remedy, and whether such a writ will be considered is within our sole discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851

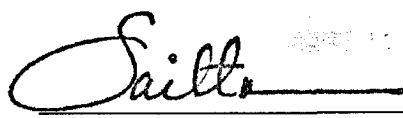
(1991). Moreover, it is petitioner's burden to demonstrate that our extraordinary intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having reviewed petitioner's petition and appendix, we conclude that our extraordinary intervention is unwarranted. *Smith*, 107 Nev. at 677, 818 P.2d at 851; *Pan*, 120 Nev. at 228, 88 P.3d at 844. Specifically, it does not appear that the district court arbitrarily exercised its discretion, NRS 34.160, or that the justice court exceeded its jurisdiction. NRS 34.320; NRS 4.370(1)(h). Additionally, we have considered petitioner's arguments regarding NRS 40.300's constitutionality, and we conclude that these arguments do not warrant consideration in the context of this writ petition. *Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we

ORDER the petition DENIED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Carolyn Ellsworth, District Judge
Hon. Ann Zimmerman, Justice of the Peace
Richard Brandon Combs
McCarthy & Holthus, LLP/Las Vegas
Eighth District Court Clerk
Las Vegas Township Justice Court