

IN THE SUPREME COURT OF THE STATE OF NEVADA

AIRELL SAWYER,  
Petitioner,  
vs.  
THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE; AND THE HONORABLE  
ELLIOTT A. SATTLER, DISTRICT  
JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 64674

**FILED**

**JAN 16 2014**

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

*ORDER DENYING PETITION*

This original petition for a writ of mandamus or prohibition challenges a district court order restricting the time for an evidentiary hearing on a post-conviction petition for a writ of habeas corpus.

A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. NRS 34.320. Because the petition does not assert that the district court has exceeded its jurisdiction, we conclude that our intervention through a writ of prohibition is not warranted.

A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust or station, NRS 34.160, or to control an arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 637 P.2d 534 (1981). A writ of mandamus will not issue, however, if

petitioner has a plain, speedy and adequate remedy in the ordinary course of law. NRS 34.170. Petitioner has the right to appeal from an adverse decision on the post-conviction habeas petition, NRS 34.575(1), and petitioner's concerns about any limitations on the evidentiary hearing imposed by the district court may be raised in such an appeal, *see, e.g., Brown v. State*, 110 Nev. 846, 877 P.2d 1071 (1994) (addressing challenge to district court's limitation on testimony presented at post-conviction evidentiary hearing in an appeal from an order denying a post-conviction petition). And we are not convinced that this petition involves an important issue of statewide concern that warrants our intervention at this point despite the adequate remedy that is available to petitioner. In particular, the district court has exercised its discretion as the trier of fact based on the circumstances of this case; its decision does not impact any other case or litigants. For these reasons, we decline to exercise our discretion to consider the petition. *See Poulos v. Eighth Judicial Dist. Court*, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); *see also State ex rel. Dep't Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983). We therefore

ORDER the petition DENIED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Cherry, J.  
Cherry

cc: Hon. Elliott A. Sattler, District Judge  
Mary Lou Wilson  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk