

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA, DEPARTMENT
OF BUSINESS AND
INDUSTRY/TAXICAB AUTHORITY,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
RONALD J. ISRAEL, DISTRICT
JUDGE,

Respondents,

and

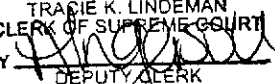
SCOTT LEWIS,

Real Party in Interest.

No. 64675

FILED

FEB 13 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

*ORDER DENYING PETITION FOR
WRIT OF PROHIBITION OR MANDAMUS*

This is an original petition for a writ of prohibition or mandamus challenging a district court order denying a motion to dismiss in a public employment matter.

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). 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). Writ relief is typically not available, however, when the petitioner has a plain, speedy, and

adequate remedy at law. *See* NRS 34.170; NRS 34.330; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Whether to consider a writ petition is within this court's discretion. *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). This court generally will not consider writ petitions challenging district court orders denying motions to dismiss, unless no factual dispute exists and the district court was obligated to dismiss the action pursuant to clear authority, or an important issue of law needs clarification. *Int'l Game Tech.*, 124 Nev. at 197-98, 179 P.3d at 558-59.

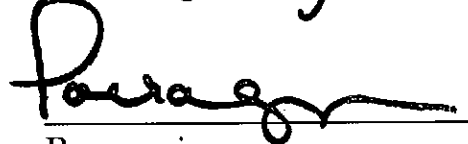
Having considered the petition, we conclude that petitioner has an adequate legal remedy in the form of an appeal from any adverse judgment, *see* NRS 34.170; NRS 34.330, and moreover, petitioner has not identified clear authority obligating the district court to dismiss this action. *See Int'l Game Tech.*, 124 Nev. at 197-98, 179 P.3d at 558-59; *Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we deny the petition. *See* NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.



Pickering

, J.



Parraguirre

, J.



Saitta

, J.

cc: Hon. Ronald J. Israel, District Judge
Attorney General/Las Vegas
Attorney General/Carson City
Law Office of Daniel Marks
Eighth District Court Clerk