

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAFAEL DELTORRO MORALES,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 65539

FILED

MAY 12 2014

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

ORDER DENYING PETITION

This original petition for a writ of mandamus challenges a district court order denying petitioner's motion to dismiss an indictment based on the State's failure to preserve material, exculpatory evidence.

"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 a manifest abuse or arbitrary or capricious exercise of discretion." *State v. Eighth Judicial Dist. Court (Armstrong)*, 127 Nev. ___, ___, 267 P.3d 777, 779 (2011) (citation omitted). The writ will not issue, however, if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170. And, because a writ of mandamus is an extraordinary remedy, the decision to entertain a petition for the writ lies within our discretion. *Hickey v. Eighth Judicial Dist. Court*, 105 Nev. 729, 731, 782 P.2d 1336, 1338 (1989).

Having considered the petition and its accompanying documents, we are not satisfied that our intervention by way of extraordinary writ is warranted. As a general rule we will not review challenges to evidentiary rulings by way of a mandamus petition because these rulings are discretionary. *See Williams v. Eighth Judicial Dist. Court*, 127 Nev. ___, ___, 262 P.3d 360, 365 (2011). Moreover, petitioner has an adequate remedy at law by way of an appeal should he be convicted. *See* NRS 177.015(3). Accordingly, we

ORDER the petition DENIED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Louis C. Schneider, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk