IN THE SUPREME COURT OF THE STATE OF NEVADA

KEITH SHANNON HOOVER,
Petitioner,
vs.
THE HONORABLE SCOTT N.
FREEMAN, DISTRICT JUDGE; AND
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE,
Respondents.

No. 66136

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original proper person petition for a writ of mandamus challenging the district court's alleged failure to resolve a request for habeas corpus relief.
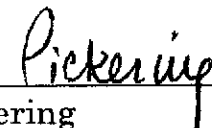
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Mandamus is an extraordinary remedy, and whether a petition will be considered is entirely within this court's discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). 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 note that a petition for habeas corpus should be instituted as a new action, rather than as a

motion filed in petitioner's criminal case. *See* NRS 34.370 (setting forth the requirements for a petition for a writ of habeas corpus); *Sheriff v. Hatch*, 100 Nev. 664, 665-66, 691 P.2d 449, 450 (1984) (explaining that a petition for habeas corpus is a collateral attack, which is litigated through an independent action.) Thus, we conclude that this court's intervention by way of extraordinary relief is not warranted, and we deny the petition. *See* NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.

_____, C.J.
Gibbons

_____, J.
Pickering

_____, J.
Saitta

cc: Hon. Scott N. Freeman, District Judge
Keith Shannon Hoover
Attorney General/Carson City
Washoe District Court Clerk