

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARVIN MORAN,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
DOUGLAS SMITH, DISTRICT JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 67164

**FILED**

JAN 08 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Tracie K. Lindeman*  
DEPUTY CLERK

*ORDER DENYING PETITION*

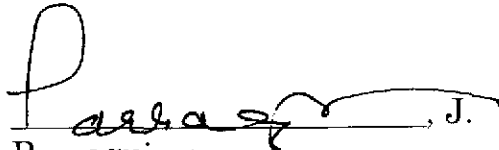
This original petition for a writ of prohibition or mandamus challenges a district court ruling allowing the State to introduce documentary and testimonial evidence concerning cell phone data information that was disclosed to petitioner the day before trial, which commenced on January 6, 2015.<sup>1</sup> 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. Further,

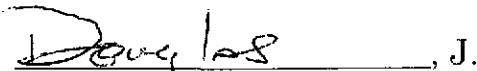
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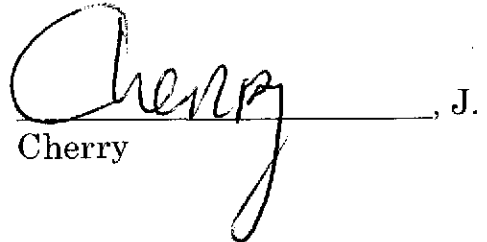
<sup>1</sup>Because the district court had jurisdiction to consider the admissibility of the challenged evidence, a writ of prohibition is not appropriate. See NRS 34.320.

mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *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). Because petitioner has an adequate remedy at law to challenge the district court's ruling by way of an appeal should he be convicted, *see Williams v. Eight Judicial Dist. Court*, 127 Nev. \_\_\_, \_\_\_, 262 P.3d 360, 365 (2011) (emphasizing that "generally this court will not consider writ petitions challenging evidentiary rulings, as those rulings are discretionary and there typically is an adequate remedy in the form of an appeal following an adverse final judgment"), we

ORDER the petition DENIED.

  
Parraguirre, J.

  
Douglas, J.

  
Cherry, J.

cc: Hon. Douglas Smith, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk