

IN THE SUPREME COURT OF THE STATE OF NEVADA

OSCAR BUSTAMONTE,
Petitioner,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70963

FILED

SEP 21 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of habeas corpus, or alternatively, a writ of audita querela. Petitioner Oscar Bustamonte, who faces removal proceedings in federal court, seeks relief from a Nevada conviction. We conclude that our intervention by extraordinary writ is not warranted. A petition for a writ of habeas corpus is improperly filed in this court in the first instance. *See* NRAP 22. A petition for audita querela should likewise be filed in the district court in the first instance and any adverse decision appealed to this court.¹ Accordingly, we

ORDER the petition DENIED.²

Parraguirre, C.J.
Parraguirre

Hardesty, J.
Hardesty

Pickering, J.
Pickering

¹The availability and scope of a petition for a writ of audita querela in a criminal case are issues of first impression that may be considered in an appeal from the denial of any such petition. Likewise, the issue of appealability is appropriately raised in an appeal from an adverse decision.

²We further note that Bustamonte has failed to provide an appendix or supporting documents.

cc: Mueller Hinds & Associates
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk