

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 36458

GARY NELSON, LINDA NELSON AND  
NELSON PACIFIC CORPORATION,

Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF WASHOE, AND THE  
HONORABLE STEVEN P. ELLIOTT,  
DISTRICT JUDGE,

Respondents,

and

SOUTHWEST BUILDERS & DEVELOPMENT,  
INC.,

Real Party in Interest.

**FILED**

JUL 28 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. Smith*  
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

We have considered this petition for a writ of mandamus, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time. In particular, it appears that petitioners have an adequate and speedy remedy in the form of an appeal. See *Guerin v. Guerin*, 114 Nev. 127, 131, 953 P.2d 716, 719 (1998) (explaining that an appeal is an adequate legal remedy); *Holiday Inn v. Barnett*, 103 Nev. 60, 732 P.2d 1376 (1987) (noting that an appeal may be taken from an order of the district court denying a motion under NRCP 60(b)(3)); NRS 34.170 (stating that a writ of mandamus may issue only if no other adequate and speedy remedy exists).<sup>1</sup>

Although petitioners assert that an appeal is not an adequate and speedy remedy because the real party in interest

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<sup>1</sup>We note that petitioners have filed an appeal from the district court's order; that appeal has been docketed as No. 36081.

has begun aggressive collection activities upon the judgment, collection activities do not determine whether an appeal is an adequate remedy. Moreover, although petitioners complain that they will have to post a significant cash bond to stay, on appeal, the execution of judgment, and that this cash bond will harm them financially, the documents before this court demonstrate that on July 12, 2000, the district court granted petitioners' motion to post a cash bond in an amount lower than the judgment and to obtain a stay.

Accordingly, we deny the petition. See NRAP 21(b); State ex rel. Dep't Transp. v. Thompson, 99 Nev. 358, 662 P.2d 1338 (1983).

It is so ORDERED.

<u>Young</u> Young	J.
<u>Agosti</u> Agosti	J.
<u>Leavitt</u> Leavitt	J.

cc: Hon. Steven P. Elliott, District Judge  
Mirch & Mirch  
Jack D. Campbell  
Washoe County Clerk