

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 36460

GROVER CLEVELAND THOUVENELL,

Petitioner,

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

MARIE PATRICIA FINLEY,

Real Party in Interest.

FILED

JUL 28 2000

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

ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

This is an original proper person petition for a writ of habeas corpus challenging the denial of petitioner's request for a continuance of a civil trial, among other rulings by the district court in the civil case. Petitioner does not allege that he is incarcerated or otherwise in custody.


As an initial matter, we note that a writ of habeas corpus is available as a remedy only to one who is held in actual custody or incarcerated pursuant to a criminal conviction. See Nev. Const. art. 6, § 6(1); NRS 34.724(1); Jackson v. State, 115 Nev. 21, 973 P.2d 241 (1999). It has no application to a party who is dissatisfied with the district court's rulings in a civil case. Accordingly, a writ of habeas corpus is not available to petitioner.

In addition, to the extent that we might construe the petition as one for a writ of mandamus, we conclude that extraordinary relief is not warranted. NRS 34.170 provides that a writ of mandamus may only be issued where there is no


plain, speedy, adequate remedy at law. Here, it appears that petitioner may appeal from any judgment entered as a result of the trial, and raise as an issue on appeal any challenge he may have to pre-trial rulings of the district judge. See NRAP 3A(b)(1). An appeal is an adequate remedy at law. See Guerin v. Guerin, 114 Nev. 127, 131, 953 P.2d 716, 719 (1998).

Accordingly, we deny the petition.

It is so ORDERED.


_____, J.
Rose


_____, J.
Young


_____, J.
Leavitt

cc: Hon. Steven P. Elliott, District Judge
Noel E. Manoukian, Ltd.
Grover Cleveland Thouvenell
Washoe County Clerk