

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FRANK MILFORD PECK,  
Petitioner,  
vs.  
THE STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS;  
JAMES DZURENDA, DIRECTOR;  
BRIAN WILLIAMS, WARDEN; AND  
THE STATE OF NEVADA,  
Respondents.

No. 72585

FILED

MAY 15 2017

CHARLES BROWN  
CLERK OF COURT  
BY *Amical*  
DEPUTY CLERK

*ORDER DENYING PETITION FOR WRIT OF MANDAMUS*


This original petition for a writ of mandamus seeks an order declaring a Nevada Department of Corrections (NDOC) Administrative Regulation (AR) unconstitutional and directing NDOC to reinstate several inmate grievances that it purportedly denied based on that regulation.

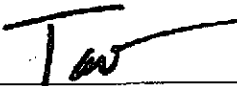
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of mandamus will not issue, however, if the petitioner has a plain, speedy, and adequate remedy at law. *See* NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *See Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the burden of demonstrating that extraordinary

relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

In this case, petitioner failed to provide an appendix with the documents necessary to evaluate his petition. *See id.* (noting that it is the petitioner's burden to provide the documents necessary to demonstrate that extraordinary relief is warranted). Moreover, because petitioner can challenge the constitutionality of the subject regulation by filing an action in district court, he has a plain, speedy, and adequate remedy at law and, therefore, this court's intervention by way of an extraordinary writ is not warranted. *See NRS 34.170; Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558; *see also Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we deny the petition.

It is so ORDERED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Frank Milford Peck  
Attorney General/Carson City

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<sup>1</sup>In light of the foregoing, we also deny the request for relief in the proper person document that petitioner filed on May 3, 2017, as moot.