

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRUCE HARRISON BIRCH, AN  
INDIVIDUAL,  
Appellant,  
vs.  
THE STATE BAR OF NEVADA,  
Respondent.

No. 72498

**FILED**

AUG 08 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Bruce Harrison Birch appeals from a district court order dismissing a petition for a writ of mandamus concerning attorney disciplinary records. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Birch filed a petition for a writ of mandamus, seeking an order directing the State Bar to release certain information relating to “any and all complaints” that it had received against attorney Robert Bruce Lindsay. For support, Birch cited the Nevada Public Records Act (NPRA), which requires governmental entities to make records available to the public for inspection unless they are otherwise declared confidential. NRS 239.010(1).<sup>1</sup> The State Bar moved to dismiss Birch’s petition under NRCP 12(b)(5), arguing that the NPRA did not apply to it based on separation of powers principles. Alternatively, the State Bar sought dismissal even if the NPRA applied, asserting that Birch did not show that the relevant records were public under SCR 121, which governs the confidentiality of the State

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<sup>1</sup>We cite to the current version of NRS 239.010(1); which has been amended numerous times since Birch filed his petition, as those amendments do not affect the outcome of this appeal.

Bar's disciplinary records. The district court ultimately dismissed Birch's petition without reaching the State Bar's constitutional argument, finding that his petition was overbroad because it encompassed documents that were confidential under SCR 121.

Having reviewed Birch's informal brief and the record on appeal, we conclude that the district court's decision should be affirmed, albeit for a reason somewhat different than the one identified by the district court. *See Deja Vu Showgirls of Las Vegas v. State, Dep't of Taxation*, 130 Nev. \_\_\_, \_\_\_ n.4, 334 P.3d 387, 390 n.4 (2014) (affirming the district court's decision for a reason other than the one relied on by the district court). In particular, while Birch argues the information he sought was subject to disclosure because the associated records were public under SCR 121, he failed to provide any documents or other materials demonstrating that he submitted a request for the information to the State Bar or that the State Bar denied such a request. Thus, even if we were to assume that the NPRA applied here,<sup>2</sup> without any documents supporting his petition, Birch has not demonstrated that he actually requested, and was denied, information that is publicly available under SCR 121. Indeed, he has failed to demonstrate that he actually requested any information from the State Bar or that any such request was denied.

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<sup>2</sup>In light of the basis for our disposition of this appeal, we do not address the applicability of the NPRA to the State Bar. *See Miller v. Burk*, 124 Nev. 579, 588-89, 188 P.3d 1112, 1118-19 (2008) (recognizing that appellate courts will not resolve constitutional questions that are unnecessary to the disposition of an appeal). Our decision in this matter further makes it unnecessary to address the district court's finding that Birch's petition was overbroad because it encompassed records that were confidential under SCR 121.

Under these circumstances, we conclude Birch failed to satisfy his burden of establishing that he was entitled to extraordinary relief. *Cf. Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228-29, 88 P.3d 840, 844 (2004) (concluding, in resolving a petition for writ relief filed in the supreme court, that petitioners have the burden of demonstrating extraordinary relief is warranted and that, when "essential information is left out of the petition and accompanying documentation," courts have no way of properly evaluating the petition). And we therefore conclude that the district court did not abuse its discretion in dismissing Birch's petition for mandamus relief. *See Reno Newspapers, Inc. v. Haley*, 126 Nev. 211, 214, 234 P.3d 922, 924 (2010) (stating that appellate courts review district courts' decisions to grant or deny writ petitions for an abuse of discretion). Accordingly, we affirm that decision.

It is so ORDERED.<sup>3</sup>

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

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

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

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<sup>3</sup>We have reviewed Birch's remaining appellate contentions and conclude that they do not provide a basis for reversing the district court's decision.

cc: Hon. Elliott A. Sattler, District Judge  
Bruce Harrison Birch  
Parsons Behle & Latimer/Reno  
Washoe District Court Clerk