

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVIS MONJE,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE ROB  
BARE, DISTRICT JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 73179

**FILED**

NOV 15 2017

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

*ORDER DENYING PETITION*


This original petition for a writ of mandamus and/or prohibition seeks an order directing the district court to vacate the order filed on May 9, 2017, and dismiss the conviction entered against Davis Monje.


A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust or station, NRS 34.160, or to control a manifest abuse or arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. NRS 34.320. Petitions for extraordinary writs are addressed to the sound discretion of the court, *see State ex rel. Dep't of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983), and the "[p]etitioner[ ] carr[ies] the burden of demonstrating that extraordinary

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

We have considered the petition, and we conclude this court’s intervention by way of extraordinary writ is not warranted. Monje was charged with misdemeanor driving under the influence. The justice court denied Monje’s motion for a jury trial and Monje challenged that decision on appeal to the district court. Monje argued Nevada caselaw is inconsistent with the Nevada Constitution. Monje now asserts the district court erred by affirming the justice court’s denial of his request for a jury trial. The district court, however, did not abuse its discretion by relying on binding Nevada Supreme Court precedent when affirming the justice court’s denial of Monje’s request for a jury trial. See *Amezcuca v. Eighth Judicial Dist. Ct.*, 130 Nev. 45, 48, 319 P.3d 602, 604 (2014) (“[T]he right to a jury trial attaches only to ‘serious’ offenses.”); *Blanton v. North Las Vegas Mun. Court*, 103 Nev. 623, 633, 748 P.2d 494, 500 (1987) (driving under the influence is not a serious offense requiring a jury trial), *aff’d*, 489 U.S. 538 (1989). And to the extent Monje requests this court to resolve conflicting precedent, this is not relief this court can grant. Accordingly, we

ORDER the petition DENIED.

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

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

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

cc: Hon. Rob Bare, District Judge  
Mueller Hinds & Associates  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk