

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEFFERY EGET,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
BARRY L. BRESLOW, DISTRICT
JUDGE,

Respondents,

and

BRIAN NELSON; AND TERRY
NELSON,

Real Parties in Interest.

No. 74494

FILED

JAN 29 2018

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

*ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION*

This original petition for a writ of mandamus or prohibition seeks an order directing the district court to grant petitioner's motion to dismiss a petition for judicial review of an administrative action or to prohibit any further action on the petition for judicial review.


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 prohibition may be warranted when a district court acts without or in excess of its jurisdiction. NRS 34.320; *Club Vista Fin. Servs., LLC v. Eighth Judicial Dist. Court*, 128 Nev. 224, 228, 276 P.3d 246, 249 (2012). Where there is no plain, speedy, and adequate remedy in the ordinary course of the law, extraordinary relief may


be available. NRS 34.170; NRS 34.330; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Whether a writ of mandamus will be considered is within this court's sole discretion. *Smith*, 107 Nev. at 677, 818 P.2d at 851. 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).

Having considered the petition, we conclude that petitioner has a speedy and adequate remedy available in the form of an appeal from the petition for judicial review. *See id.* at 224, 88 P.3d at 841 (noting that an appeal is generally an adequate legal remedy precluding writ relief). As such, petitioner has failed to demonstrate that extraordinary writ relief is warranted. *See id.* at 228, 88 P.3d at 844. Accordingly, we deny the petition. *See* NRAP 21(b)(1); *D.R. Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.


Silver, C.J.


Tao, J.


Gibbons, J.

cc: Hon. Barry L. Breslow, District Judge
Angres & Axelrod, Ltd.
Richard L. Elmore, Chtd.
Washoe District Court Clerk