

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THOMAS & KATHLEEN GARLAND
FAMILY TRUST; AND COURTNEY
DOLAN,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,

Respondents,

and

RAYMOND L. MELTON, AN
INDIVIDUAL; BART KOLBER, AN
INDIVIDUAL; WILLIAM HOGARTY,
AN INDIVIDUAL; OLYMPIA
FUNDING, INC., A CALIFORNIA
CORPORATION; COUNTRYWIDE
HOME LOANS, A CALIFORNIA
CORPORATION, A/K/A BANK OF
AMERICA, A NORTH CAROLINA
CORPORATION, D/B/A BAC HOME
LOANS SERVICING, LP, A
CALIFORNIA CORPORATION; BANK
OF NEW YORK MELLON, ON BEHALF
OF CWALT, INC., ALTERNATIVE
LOAN TRUST A-2004-24CB, A NEW
YORK CORPORATION; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., A DELAWARE
CORPORATION; MERS CORP, INC., A
VIRGINIA CORPORATION; AND
NEVADA TITLE COMPANY, A
NEVADA COMPANY,
Real Parties in Interest.

No. 76546

FILED

OCT 24 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRITS OF MANDAMUS AND CERTIORARI*

This is an original petition for writs of mandamus and certiorari seeking to disqualify a district court judge from sitting in the underlying case.

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). Writ relief is typically not available, however, when the petitioners have 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.


A writ of certiorari is available to correct a lower tribunal's judicial action if the tribunal exceeded its jurisdiction and "there is no appeal, nor, in the judgment of the court, any plain, speedy and adequate remedy." NRS 34.020(2); *Dangberg Holdings Nev., LLC v. Douglas Cnty.*, 115 Nev. 129, 138, 978 P.2d 311, 316 (1999). Whether a writ of certiorari will be considered is within this court's discretion. *Id.*


The supreme court has held that the availability of an appeal is generally a speedy and adequate remedy precluding writ relief.¹ See *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). And petitioners bear the burden of demonstrating that extraordinary relief is warranted. See *id.* at 228, 88 P.3d at 844. Having considered the documents before us, we conclude petitioners have not demonstrated that

¹We note that petitioners recently filed an appeal arising from the underlying district court case, which is currently pending before the Nevada Supreme Court in Docket No. 77182 (*Garland Family Trust v. Melton*).

our extraordinary intervention is warranted. *Id.*; NRAP 21(b)(1); NRAP 21(c). Accordingly, we deny the petition.

It is so ORDERED.²


_____, C.J.
Silver


_____, J.
Gibbons

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Dolan Law Group, Ltd.
Black & LoBello
Akerman LLP/Las Vegas
Bart Kolber
Vegas Valley Law, LLC
Skrinjaric Law Office
William Hogarty
Eighth District Court Clerk

²The Honorable Jerome Tao, Judge, voluntarily recused himself from participating in the decision of this matter.