

IN THE SUPREME COURT OF THE STATE OF NEVADA

SAMANTHA MERRELL,
Petitioner,
vs.
CLARK COUNTY JUSTICE OF THE
PEACE SUZAN BAUCUM; AND
JUSTICE OF THE PEACE ANN
ZIMMERMAN,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 78802

FILED

JUL 11 2019

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

ORDER DENYING PETITION

This petition for a writ of mandamus challenges a district court order denying a motion to recuse/disqualify a judge in a misdemeanor DUI prosecution. We are not satisfied that this court's intervention by way of an extraordinary writ is warranted because petitioner has not demonstrated that the justice court acted arbitrarily and capriciously in denying the motion to recuse/disqualify. *See* NRS 34.160; *State v. Eighth Judicial Dist. Court (Armstrong)*, 127 Nev. 927, 931-32, 267 P.3d 777, 780 (2011) (recognizing that a writ of mandamus may issue to control an arbitrary or capricious exercise of discretion and defining an arbitrary and capricious exercise of discretion as "one founded on prejudice or preference rather than on reason, or contrary to the evidence or established rules of law") (internal citations and quotations omitted); *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (recognizing that a petitioner bears the burden of demonstrating that extraordinary relief is warranted); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (recognizing that the issuance of a writ of mandamus is discretionary); *see*

also NCJC 2.11(A)(1) (requiring disqualification where a judge's impartiality might reasonably be questioned); *Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (recognizing that bias must stem from an extrajudicial source, something other than what the judge learned from her participation in the case); *In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (holding that adverse judicial rulings during the proceedings are not a basis to disqualify a judge). Accordingly, we

ORDER the petition DENIED.

Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Silver, J.
Silver

cc: Hon. Ann Zimmerman, Justice of the Peace
Hon. Suzan Baucum, Justice of the Peace
Law Offices of John G. Watkins
The Pariente Law Firm, P.C.
Clark County District Attorney
Las Vegas Justice Court Clerk