

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL ANGELO DRAKE,

No. 37239

Appellant,

vs.

THE STATE OF NEVADA, OFFICE OF THE
LABOR COMMISSIONER; TERRY JOHNSON,
COMMISSIONER; AND LOIS KELLY,
INVESTIGATOR,

Respondents.

FILED

APR 12 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying appellant's petition for a writ of mandamus.¹ Through the district court writ petition, and this appeal, appellant seeks to force the state labor commissioner to enforce appellant's claim against a former employer for unpaid wages.

NRS 607.160 provides that the labor commissioner shall enforce the state's labor laws, and when the labor commissioner believes after due inquiry "that a person financially unable to employ counsel has a valid and enforceable claim for wages . . . , [the labor commissioner] may present the facts to the attorney general" for prosecution. Here, the labor commissioner declined to take appellant's case because he did not believe appellant's claim was valid and enforceable.

After reviewing the record and materials submitted by appellant, and taking judicial notice of documents in this

¹Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have considered the proper person documents received from appellant.

court's records from other appeals taken by appellant, we decline to reverse the district court's order. Although mandamus is available to control discretionary action when discretion is manifestly abused or is exercised arbitrarily or capriciously, there is no evidence that the labor commissioner manifestly abused his discretion under the circumstances of this case.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Young J.
Young
Leavitt J.
Leavitt
Becker J.
Becker

cc: Hon. Michael R. Griffin, District Judge
Attorney General
Dianna DeBeau Hegeduis, Deputy Attorney General,
Las Vegas
Michael Angelo Drake
Carson City Clerk

²See *Hannam v. Brown*, 114 Nev. 350, 357, 956 P.2d 794, 799 (1998) (noting this court will affirm a district court order if the court reached the right result, albeit for different reasons); *Rosenstein v. Steele*, 103 Nev. 571, 575, 747 P.2d 230, 233 (1987) (same).