

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID LEVOYD REED,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
WILLIAM D. KEPHART, DISTRICT
JUDGE,

Respondents,


and

THE STATE OF NEVADA,
Real Party in Interest.

No. 79624-COA

FILED

OCT 30 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION

In this original petition for a writ of mandamus, David Levoyd Reed seeks an order directing the district court to reverse and vacate its orders denying his motion to dismiss the indictment that was filed pursuant to NRS 172.241(2) and NRS 174.185(3) and his motion for sanctions under Rule 11(b). Reed also asks this court to direct the district court to conduct a hearing on his motion to inspect all favorable evidence.

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 mandamus will not issue, however, if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170. Further, mandamus is an extraordinary remedy, and it is within the discretion of

this court to determine if a petition will be considered. *See Poulos v. Eighth Judicial Dist. Court*, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); *see also State ex rel. Dep't of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983). "Petitioner[] 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).

Reed can challenge the district court's denial of his motion to dismiss the indictment and motion for sanctions on appeal in the event he is convicted. NRS 177.015(3); NRS 177.045. Therefore, Reed has a plain, speedy, and adequate remedy at law and this court's intervention by way of an extraordinary writ is not warranted to address the denial of those motions. Further, the record provided by Reed indicates the district court placed his motion to inspect all evidence on calendar and found discovery had been provided to Reed's stand-by counsel. Given this record, we conclude Reed has failed to demonstrate this court's intervention by way of extraordinary writ is warranted to direct the district court to address his motion to inspect all evidence. Accordingly, we

ORDER the petition DENIED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. William D. Kephart, District Judge
David Levoyd Reed
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk