

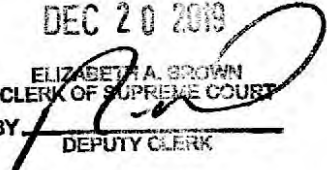
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID AUGUST KILLE, SR.,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK,
Respondent.

No. 79170-COA

FILED

DEC 20 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is a petition for a writ of mandamus that challenges the district court's denial of petitioner's motion to strike real parties in interest's opposition to his request for a default judgment and of his motion for a default judgment.

A writ of mandamus is available to compel the performance of an act 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. v. Eighth Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). But writ relief is typically not available when the petitioner has 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. And the availability of an appeal is generally a speedy and adequate remedy precluding writ relief. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). Further, a party who is ultimately aggrieved by the final judgment in a district court case can challenge interlocutory orders, such as the one at issue here, in the context of an appeal from the

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final judgment. See *Consolidated Generator v. Cummins Engine*, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998). Finally, whether a writ petition will be considered rests within our sound discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

Petitioner asserts that he filed the instant petition for extraordinary writ relief after his appeal from the challenged order was dismissed. But our supreme court has recognized that petitions for writ relief should not be utilized as a vehicle for piecemeal appellate review. See *W. Cab Co. v. Eighth Judicial Dist. Court*, 133 Nev. 65, 67, 390 P.3d 662, 667 (2017). Likewise, the supreme court has determined that the petitioner bears the burden of demonstrating that the appellate courts' extraordinary intervention is warranted. See *Pan*, 120 Nev. at 228, 88 P.3d at 844. And having evaluated petitioner's arguments and the documents provided in support of his petition, we conclude he has not demonstrated that our extraordinary intervention is warranted as to the challenged order. *Id.* Accordingly, we

ORDER the petition DENIED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: David August Kille, Sr.
Attorney General/Carson City
Eighth District Court Clerk