

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT P. BAKER, AN INDIVIDUAL,
Petitioner,

No. 37426

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND THE
HONORABLE NORMAN C. ROBISON,
SENIOR JUDGE, AND THE HONORABLE
JOSEPH S. PAVLIKOWSKI, SENIOR
JUDGE,

FILED

APR 20 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

Respondents,

and

RIO PROPERTIES, INC., A NEVADA
CORPORATION,

Real Party in Interest.

ORDER DENYING PETITION FOR WRIT OF PROHIBITION OR MANDAMUS

This original petition for a writ of prohibition or other appropriate writ¹ challenges a district court order entered November 28, 2000, which dismissed petitioner's abuse of process counter-claim.

This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court.² A petition for a writ of prohibition is addressed to the sound discretion of this court.³

A writ of mandamus is available to compel the performance of an act which the law requires as a duty

¹We elect to treat petitioner's writ petition as a petition for a writ of prohibition or a writ of mandamus.

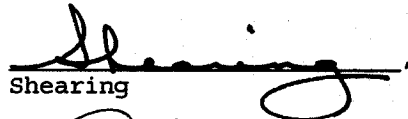
²See NRS 34.320.

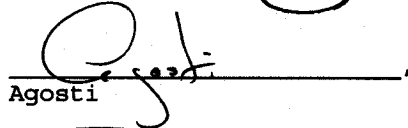
³See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

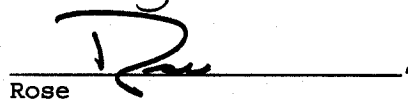
resulting from an office, trust or station,⁴ or to control an arbitrary or capricious exercise of discretion.⁵ Mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered.⁶

Neither a writ of prohibition nor a writ of mandamus will issue, however, if petitioner has a plain, speedy and adequate remedy in the ordinary course of law.⁷ We have considered the petition, and we are not persuaded that this court's intervention by way of extraordinary relief is warranted at this time. Accordingly, we

ORDER the petition DENIED.⁸


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Rose

cc: Hon. Norman C. Robison, Senior Judge
Hon. Joseph S. Pavlikowski, Senior Judge
Nikolas L. Mastrangelo
Lionel Sawyer & Collins
Clark County Clerk

⁴See NRS 34.160.

⁵See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

⁶See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849.

⁷See NRS 34.170; NRS 34.330.

⁸We deny as moot petitioner's application for stay of the district court proceedings, which was filed with this court on February 13, 2001.