

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LANCE REBERGER,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK,  
Respondent,  
and  
THE STATE OF NEVADA; STEVEN B.  
WOLFSON; AND THOMAS A.  
ERICSSON,  
Real Parties in Interest.

No. 83075-COA

**FILED**

AUG 05 2021

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

*ORDER DENYING PETITION*

In this original petition for a writ of mandamus and/or prohibition, Lance Reberger seeks orders directing the Eighth Judicial District Court Clerk to file his pro se documents; prohibiting his transfer from the custody of the Nevada Department of Corrections (NDOC) to the Clark County Detention Center (CCDC) for the duration of his trial or, in the alternative, ordering the prison to transport his legal documents and personal property if he is transferred; directing the district court to dismiss both standby counsel and the defense investigator and appoint a new defense investigator; and prohibiting the district court from appointing new trial counsel at any future time.

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

prohibition may issue 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. NRS 34.320. Neither writ will issue if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330. Petitions for extraordinary writs are addressed to the sound discretion of the court, *see State ex rel. Dep't of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983), and the “[p]etitioner[ ] 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).

First, Reberger seeks an order directing the Eighth Judicial District Court Clerk to file all of his pro se motions or oppositions to the State’s motions. In support of this claim, Reberger provided a single document that the Clerk purportedly refused to file. The document was not a motion or opposition but rather an NDOC “medical diet order form.” Reberger does not state whether he began to represent himself before or after he submitted the meal-plan document for filing. For these reasons, Reberger fails to demonstrate the Clerk is improperly refusing to file his motions or oppositions. Accordingly, we conclude Reberger has not met his burden of demonstrating that extraordinary relief is warranted, and he is not entitled to relief on this claim.

Second, Reberger seeks an order prohibiting his transfer to CCDC for the duration of his trial. Reberger fails to identify any proceedings that would be in excess of the district court’s jurisdiction. Further, he fails to identify any duty that any actor has not performed or any abuse or arbitrary or capricious exercise of discretion. Accordingly, we conclude Reberger has not met his burden of demonstrating that extraordinary relief is warranted on this issue. In the alternative, Reberger seeks an order directing High Desert State Prison to transport his legal

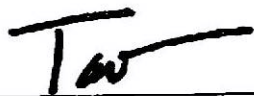


documents and personal property with him if he is transferred to CCDC. We are not convinced this court's intervention by way of extraordinary relief is warranted.<sup>1</sup> For these reasons, we conclude Reberger is not entitled to relief on these claims.

Third, Reberger seeks an order directing the district court to dismiss standby counsel and the defense investigator and to appoint a new investigator. He also seeks an order prohibiting the district court from ever appointing standby or trial counsel. Reberger does not allege the district court abused its discretion or that any proceedings would be in excess of the district court's jurisdiction. Further, he does not demonstrate that the district court has a duty to dismiss standby counsel, replace the defense investigator, or never appoint trial or standby counsel in the future. See *Faretta v. California*, 422 U.S. 806, 834-35 n.46 (1975) (recognizing a trial court may appoint standby counsel even over a defendant's objection and "may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct"). Accordingly, we conclude Reberger has not met his burden of demonstrating that extraordinary relief is warranted, and he is not entitled to relief on this claim.

For the foregoing reasons, we  
ORDER the petition DENIED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

<sup>1</sup>This order does not preclude Reberger from seeking relief in the district court.

cc: Lance Reberger  
Attorney General/Carson City  
Clark County District Attorney  
Ornoz & Ericsson, LLC  
Eighth District Court Clerk