

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARVIN OSVALDO MARTIN,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,
Respondents,
and
JONATHAN BUSTAMANTE,
Real Party in Interest.

No. 82911-COA

FILED

NOV 15 2021

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

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS*

This original petition for a writ of mandamus challenges a district court's order granting a motion in limine.

A writ of mandamus is available to compel the performance of an act that 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., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of mandamus will not issue, however, if 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 an appeal from a final judgment generally constitutes a plain, speedy, and adequate remedy that precludes writ relief with respect to challenges to the district court's pretrial evidentiary decisions. *See Williams v. Eighth Judicial Dist. Court*, 127 Nev. 518, 524, 262 P.3d 360, 364 (2011). Further, mandamus is an extraordinary remedy, and it is within the discretion of

this court to determine if a petition will be considered. *See Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition and supporting documents, we conclude that petitioner has failed to meet his burden of demonstrating that extraordinary writ relief is warranted. *See id.* In particular, petitioner has a plain, speedy, and adequate remedy in the form of an appeal should he be aggrieved following trial. *See Williams*, 127 Nev. at 524, 262 P.3d at 364. And although our supreme court has recognized that orders challenging evidentiary rulings may, in some cases, warrant consideration through a petition for extraordinary writ relief, petitioner has not met his burden of demonstrating that the order at issue here fits within any of the narrow exceptions that would support our consideration of this matter. *See id.* at 524-25, 262 P.3d at 364-65 (outlining exceptions to the general rule against entertaining admissibility-related writ petitions when an appeal from the final judgment is available). Accordingly, we deny the petition. *See id.* at 524, 262 P.3d at 364; *Smith*, 107 Nev. at 677, 679, 818 P.2d at 851, 853.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department Eleven
De Castroverde Law Group
Barron & Pruitt, LLP
Eighth District Court Clerk