


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT BROWN, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85061-COA

FILED

APR 27 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Robert Brown, Jr., appeals from an order of the district court denying a pretrial “motion for dismissal by a suggestion of immunity or a writ of prohibition, or mandamus.” Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

In his April 13, 2022, motion, Brown appeared to contend that he is immune from prosecution because he is an official representative of his church. 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 lower court exercising its judicial functions when such proceedings are in excess of the jurisdiction of the lower court. NRS 34.320. A writ of mandamus or prohibition will not issue, however, if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170, NRS 34.330. “Petitioners carry 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).

“We generally review a district court’s grant or denial of writ relief for an abuse of discretion.” *Koller v. State*, 122 Nev. 223, 226, 130 P.3d 653, 655 (2006).

Brown is awaiting trial on the underlying criminal charges, and he has the right to pursue a direct appeal if he is later convicted of those charges. *See* NRS 177.015(3). The right to a direct appeal will generally preclude writ relief. *See Watson Rounds v. Eighth Judicial Dist. Court*, 131 Nev. 783, 786, 358 P.3d 228, 231 (2015) (“The right . . . to appeal in the future, after a final judgment is ultimately entered, will generally constitute an adequate and speedy legal remedy precluding writ relief.”). Because Brown has a plain, speedy, and adequate remedy in the ordinary course of law, he was not entitled to extraordinary relief. Accordingly, we conclude that the district court did not err by denying Brown’s petition, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

¹To the extent that Brown sought dismissal of his criminal case aside from his request for mandamus or prohibition relief and appeals the denial of that dismissal, this court lacks jurisdiction to consider such an appeal as no statute or court rule permits a criminal defendant to appeal from the denial of a pretrial motion to dismiss. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (explaining that court has jurisdiction only when statute or court rule provides for appeal).

cc: Hon. Jacqueline M. Bluth, District Judge
Robert Brown, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk