IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE ERIKA D. BALLOU, DISTRICT JUDGE,
Respondents,
and,
MIA CHRISTMAN,
Real Party in Interest.

No. 86007

ORDER GRANTING PETITION

This original petition for a writ of mandamus and/or prohibition challenges a district court order scheduling a second evidentiary hearing on real party in interest Mia Christman's postconviction petition for a writ of habeas corpus and declining to enter judgment in favor of petitioner the State of Nevada.

Previously, the district court granted Christman's postconviction petition after conducting an evidentiary hearing on her claims of ineffective assistance of counsel at sentencing. This court reversed that order, concluding that the record did not support the district court's findings that counsel performed ineffectively at sentencing and thus Christman had not shown that relief was warranted. *Neven v. Christman*,

23-33343

No. 83572, 2022 WL 3336142 (Nev. Aug. 11, 2022) (Order of Reversal and Remand). We therefore "order[ed] the judgment of the district court reverse[d] and remand[ed] the matter to the district court for proceedings consistent with [that] order." *Id.* On remand, Christman requested that the district court conduct another evidentiary hearing so Christman could try to present evidence to support the findings that this court concluded were not supported by the record. The district court assented, scheduled a "supplemental" evidentiary hearing, and did not enter judgment in favor of the State.

The State argues that this course of action was inappropriate and petitions for a writ of mandamus and/or prohibition. The State argues that mandamus relief is warranted because the district court acted arbitrarily and capriciously in disobeying this court's order.[1] We agree that relief is warranted.

A writ of mandamus is available to compel performance of an act the law requires as a matter of duty or to remedy the arbitrary or capricious exercise of discretion. NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Whether to issue the writ lies within this court's discretion, *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991), and generally one will not issue if the petitioner has a speedy and adequate remedy at law, *Cote H. v. Eighth Judicial Dist. Court*, 124 Nev. 36, 39, 175 P.3d 906, 908 (2008) (citing NRS 34.170 and NRS 34.330). We may exercise

---

[1]The State also argues that a writ of prohibition is warranted because the district court acted beyond its jurisdiction in scheduling an evidentiary hearing after this court determined that Christman had failed to show an entitlement to relief. Given our disposition, we need not reach this argument.

our discretion "to control a manifest abuse or capricious exercise of discretion," where a manifest abuse of discretion is a clearly erroneous interpretation or application of the law and a capricious exercise of discretion "is contrary to the evidence or established rules of law." *Brown v. Eighth Judicial Dist. Court*, 133 Nev. 916, 919, 415 P.3d 7, 10 (2017) (internal quotation marks omitted).

Having considered the briefs and the record, we conclude that the State has shown that our intervention is appropriate. Where an appellate court rules on an issue and subsequently remands to the district court, the lower court must comply with the appellate court's mandate on remand and give force to that mandate. *Estate of Adams ex rel. Adams v. Fallini*, 132 Nev. 814, 819, 386 P.3d 621, 624 (2016) ("The mandate rule generally requires lower courts to effectuate a higher court's ruling on remand."); *see also State Eng'r v. Eureka Cty.*, 133 Nev. 557, 559, 402 P.3d 1249, 1251 (2017) (recognizing that the district court on remand must follow the appellate court's mandate and that the appeal establishes the law of the case); 5 Am. Jur. 2d Appellate Review § 684 (explaining that the mandate rule is an application of the law-of-the-case doctrine that prevents relitigating matters decided by the appellate court, requiring the lower court to "implement both the letter and the spirit of the mandate"). After this court issues its remittitur and remands to the district court for consistent proceedings, the district court is obligated to enter "all orders which may be necessary to carry the judgment into effect . . . ." NRS 177.305; *see also Butler v. Superior Court*, 128 Cal. Rptr. 2d 403, 405 (Ct. App. 2002) (concluding that, after a remand with instructions, the district court must "enter judgment in conformity with the order of the appellate court, and that order is decisive of the character of the judgment to which

the appellant is entitled" and, further, that the district court may not reopen the facts, accept new arguments, or retry the case (internal quotation marks omitted)).

Our order of reversal determined that Christman had not shown an entitlement to relief for ineffective assistance of counsel. It did not direct the district court to hear new evidence regarding the claims that we concluded lacked merit. The order of reversal resolved Christman's ineffective-assistance-of-counsel claims and required the district court to enter an order to give effect to that judgment, that is, to enter an order denying the postconviction habeas petition. The district court instead sought to do precisely what it lacked authority to do—reopen consideration of an issue specifically resolved by this court on appeal and seek new evidence, materially deviating from this court's mandate. *See Wheeler Springs Plaza, LLC v. Beemon*, 119 Nev. 260, 263, 71 P.3d 1258, 1260 (2003) (reviewing the district court's compliance with this court's mandate on remand de novo). Further, our determination became the law of the case. *See Hall v. State*, 91 Nev. 314, 315, 535 P.2d 797 (1975) ("The law of a first appeal is the law of the case on all subsequent appeals in which the facts are substantially the same." (internal quotation marks omitted)). The district court did not seek to resolve an issue left unsettled by our order but instead sought to permit relitigation of settled matters, which was barred by the law-of-the-case doctrine. *See Wheeler Springs*, 119 Nev. at 266, 71 P.3d at 1262 (explaining that the law-of-the-case doctrine "applies to issues previously determined, not to matters left open by the appellate court"). In sum, after we remanded to the district court with instructions to implement our order and without leaving any issues unresolved, the district court

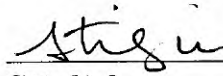
failed to follow this court's mandate in seeking to reopen the record and conduct another evidentiary hearing on the ineffective-assistance claims.

Christman argues that the State has an adequate remedy by way of direct appeal and that our intervention is therefore not warranted. We disagree. It is well established that mandamus relief is appropriate in favor of a party who has prevailed on appeal only to find that "the lower court does not proceed to execute the mandate, or disobeys and mistakes its meaning." *Vendo Co. v. Lektro-Vend Corp.*, 434 U.S. 425, 427 (1978) (internal quotation marks omitted); *see also Illinois ex rel. Hunt v. Ill. Cent. R.R. Co.*, 184 U.S. 77, 92 (1902) (concluding that no issue before the court in the first instance may be reheard or considered in a second instance, given that allowing a second challenge on the same issues "would lead to endless litigation" and observing that numerous decisions stand for these well-established propositions). The district court manifestly abused its discretion by clearly erring in interpreting this court's mandate, and it capriciously exercised its discretion by acting contrary to well established rules of law. And considering that the district court lacks authority here to conduct an evidentiary hearing or deviate from this court's mandate, we are not convinced that an appeal would be a speedy or adequate remedy for further proceedings that are both unnecessary and without legal effect. *See Hampton v. Superior Court*, 242 P.2d 1, 4 (Cal. 1952) (concluding that an appeal was not an adequate remedy precluding writ relief where the lower court deviated from the mandate on remand and would subject petitioners to an unnecessary trial). Mandamus relief is warranted here.

Accordingly, we

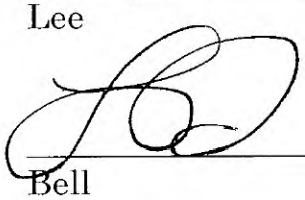
ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS directing the

district court to vacate its scheduled evidentiary hearing and enter judgment in favor of petitioner the State of Nevada.



_____, C.J.
Stiglich

_____, J.
Lee



_____, J.
Bell

cc: Hon. Erika D. Ballou, District Judge
Attorney General/Carson City
Clark County District Attorney
Law Office of Betsy Allen
Eighth District Court Clerk