

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SUSANA SANTANA; AND CESAR  
MONTANEZ-MARTINEZ,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
MICHELLE LEAVITT, DISTRICT  
JUDGE,

Respondents,

and

CITY OF HENDERSON,  
Real Party in Interest.

No. 87151-COA

FILED

APR 19 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DENYING PETITION  
FOR WRIT OF PROHIBITION OR MANDAMUS*

This original petition for a writ of prohibition or mandamus challenges a district court order denying a direct appeal from judgments of conviction for misdemeanor theft in municipal court.

This court has “original jurisdiction to grant a writ of mandamus or prohibition, and issuance of such extraordinary relief is solely within this court’s discretion.” *Agwara v. State Bar of Nev.*, 133 Nev. 783, 785, 406 P.3d 488, 491 (2017); *see Nev. Const. art. 6, § 4(1)*. 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 a manifest abuse of discretion.” *Agwara*, 133 Nev. at 785, 406 P.3d at 491 (quoting *We the People Nev. v. Miller*, 124 Nev. 874, 879, 192 P.3d 1166, 1170 (2008)). A writ of prohibition is “the counterpart to a writ of mandamus and ‘may be issued to compel a person or body exercising judicial

functions to cease performing beyond its legal authority.” *Id.* (quoting *Halverson v. Miller*, 124 Nev. 484, 487, 186 P.3d 893, 896 (2008)).

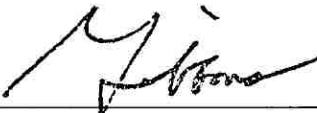
We review district court orders for an “arbitrary or capricious abuse of discretion.” *City of Henderson v. Eighth Jud. Dist. Ct.*, 137 Nev. 282, 284, 489 P.3d 908, 910 (2021) (internal quotation marks omitted). District courts have final appellate jurisdiction in cases arising in municipal courts, *see Tripp v. City of Sparks*, 92 Nev. 362, 363, 550 P.2d 419, 419 (1976), and we generally decline to consider writ petitions that request review of district court decisions rendered while the district court is acting in its appellate capacity, *see Hildt v. Eighth Jud. Dist. Ct.*, 137 Nev. 121, 123, 483 P.3d 526, 529 (2021). This stems from a “recognition that doing so ‘would undermine the finality of the district court’s appellate jurisdiction.’” *Id.* (quoting *State v. Eighth Jud. Dist. Ct. (Hedland)*, 116 Nev. 127, 134, 994 P.2d 692, 696 (2000)). We will entertain such petitions only where the district court has either refused to exercise its jurisdiction, exceeded its jurisdiction, or otherwise abused its discretion by acting in an arbitrary or capricious manner. *Id.*

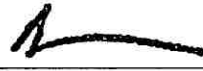
Here, petitioners Susana Martinez and Cesar Montanez-Martinez argue that the district court refused to exercise its jurisdiction when it accepted the municipal court’s credibility determinations and issued a blanket order. Petitioners also contend that the district court abused its discretion when it denied their appeal, thereby affirming the municipal court’s judgments of conviction and denial of their motion for new trial.

Based on our thorough review of the record and all the briefing before us, we conclude that petitioners have not demonstrated that extraordinary intervention is warranted. *See* NRS 34.160; *Int’l Game Tech.*,

*Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008);  
*Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844  
(2004). Accordingly, we deny the petition.

It is so ORDERED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Michelle Leavitt, District Judge  
Liberators Criminal Defense  
Henderson City Attorney  
Eighth District Court Clerk