

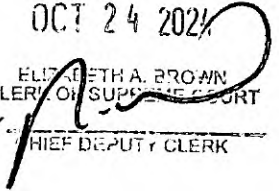
IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS RICHARDSON,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; THE HONORABLE  
MICHELLE LEAVITT, DISTRICT  
JUDGE; AND THE HONORABLE  
JERRY A. WIESE, CHIEF JUDGE,  
Respondents,  
and  
WILLIAM GITTERE, WARDEN; ELY  
STATE PRISON; AARON D. FORD,  
ATTORNEY GENERAL; AND THE  
STATE OF NEVADA,  
Real Parties in Interest.

No. 87400

FILED

OCT 24 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
CHIEF DEPUTY CLERK

*ORDER DENYING PETITION*

This original petition for a writ of mandamus seeks to compel Chief Judge Jerry A. Wiese to disqualify Judge Michelle Leavitt from presiding over petitioner Thomas Richardson's postconviction petition for a writ of habeas corpus.<sup>1</sup>

<sup>1</sup>Richardson also seeks a writ of prohibition. Because Chief Judge Wiese had jurisdiction to consider Richardson's challenge to Judge Leavitt for bias, see NRS 1.235(7)(a), a writ of prohibition cannot issue. See *Wolzinger v. Eighth Jud. Dist. Ct.*, 105 Nev. 160, 168, 773 P.2d 335, 340 (1989) (concluding that the chief judge had jurisdiction to consider bias challenge to district court judge and therefore prohibition could not issue).

A writ of mandamus is available to compel the performance of a legally required act or to control an arbitrary or capricious exercise of discretion. NRS 34.160; *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Whether to consider a writ petition is wholly within this court's discretion. *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

This court has recognized the propriety of extraordinary writ review in assessing questions of judicial disqualification. *State ex rel. McMahan v. First Jud. Dist. Ct.*, 78 Nev. 314, 316, 371 P.2d 831, 833 (1962). But having considered the petition and the supporting documents, we conclude that Richardson has not shown that our extraordinary intervention is warranted. *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (observing that the party seeking relief bears the burden of showing such relief is warranted). Judge Leavitt insisted that she could be impartial and harbored no bias against Richardson. Given the weight we afford a judge's assessment of their own impartiality, *Sonner v. State*, 112 Nev. 1328, 1335, 930 P.2d 707, 712 (1996), Richardson's assertion that Judge Leavitt's professional interest in appearing impartial prevented her from reliably ruling on his postconviction claims of bias cannot overcome that assessment. Richardson therefore did not demonstrate that the chief

judge's refusal to disqualify Judge Leavitt was a manifest abuse, or an arbitrary or capricious exercise, of discretion. *Redeker v. Eighth Jud. Dist. Ct.*, 122 Nev. 164, 167, 127 P.3d 520, 522 (2006). Accordingly, we

ORDER the petition DENIED.

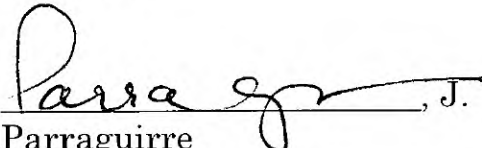
  
\_\_\_\_\_, C.J.  
Cadish

  
\_\_\_\_\_, J.  
Stiglich

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Herndon

  
\_\_\_\_\_, J.  
Lee

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Jerry A. Wiese, Chief Judge  
Hon. Michelle Leavitt, District Judge  
Federal Public Defender/Las Vegas  
Attorney General/Carson City  
Clark County District Attorney  
Attorney General/Las Vegas  
Eighth District Court Clerk