



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN KERRY O'KEEFE,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK
AND THE HONORABLE JENNIFER L.
SCHWARTZ, DISTRICT JUDGE,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 92970-COA

ORDER GRANTING PETITION

This original petition for a writ of mandamus challenges a district court order determining that petitioner Bryan Kerry O'Keefe's three documents were vexatious and declining to file them.

O'Keefe argues the district court abused its discretion by determining the documents he attempted to file on May 27, 2026, in district court case no. 05-C207835, were vexatious filings, and by declining to file them. O'Keefe contends he has not been found to be a vexatious litigant in district court case no. 05-C207835, nor was he given notice or an opportunity to be heard regarding any vexatious-litigant finding. In response to O'Keefe's petition, the State concedes O'Keefe did not receive notice or an opportunity to be heard regarding the vexatious-litigant determination.

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, 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). This court has discretion as to whether to entertain a petition for extraordinary relief and will not do so when the petitioner has a plain, speedy, and adequate remedy at law. *See* NRS 34.170; *D.R. Horton, Inc. v. Eighth Jud. Dist. Ct.*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). A petitioner bears the burden of demonstrating that extraordinary relief is warranted. *See Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). A challenge to a vexatious-litigant determination and pre-filing injunction may be raised in a petition for a writ of mandamus. *See Jones v. Eighth Jud. Dist. Ct.*, 130 Nev. 493, 497, 330 P.3d 475, 478 (2014).

“[D]istrict courts have inherent authority to issue orders that restrict a litigant’s filings that challenge a judgment of conviction and sentence if the court determines that the litigant is vexatious.” *Id.* at 498, 330 P.3d at 479. In *Jones*, the supreme court adopted a four-part analysis to determine whether a vexatious-litigant pre-filing injunction should be entered. *See id.* at 499, 330 P.3d at 479. The first factor, at issue here, requires that the petitioner receive reasonable notice of, and an opportunity to oppose, the vexatious-litigant determination and pre-filing injunction. *Id.*

Here, in an order filed August 9, 2023, the district court declined to impose a vexatious-litigant determination on O’Keefe because it was not clear he had been given notice of the potential determination. However, in that same order, the district court stated the order would serve as notice to O’Keefe that he was not allowed to file any further petitions for writs of coram nobis and, if he continued to do so, he would be declared a vexatious litigant. The certificate of service for this order does not list O’Keefe as being served with the order.

On May 27, 2026, O’Keefe attempted to file a petition for writ of habeas corpus or writ of coram nobis, a petition to proceed in forma pauperis, and a motion to appoint counsel. Before these documents were filed, they were screened to determine whether they were vexatious. Based on the August 9, 2023, order, the district court found that the documents were vexatious and declined to file them. However, the district court never determined that O’Keefe was a vexatious litigant in this case nor did it enter a prefiling injunction. Moreover, based on the record before us and the State’s concession, it appears O’Keefe was not given notice or an opportunity to oppose the vexatious-litigant determination. Therefore, we conclude the district court manifestly abused its discretion by treating O’Keefe’s documents as vexatious and by declining to file his documents. Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to file the three documents submitted by O’Keefe on May 27, 2026.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Jennifer L. Schwartz
Attorney General/Carson City
Clark County District Attorney
Brian Kerry O’Keefe
Eighth District Court Clerk