

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA UPON THE  
RELATION OF MIKE TRACY, MIKE  
ROBINSON, MARTHA GOULD,  
GEORGE FLINT, BERNIE CLARK,  
INDIVIDUAL ELECTORS, AND  
CITIZENS FOR A PUBLIC TRAIN  
TRENCH VOTE, A POLITICAL ACTION  
COMMITTEE,  
Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE, AND THE HONORABLE  
JAMES W. HARDESTY, DISTRICT  
JUDGE,

Respondents,

and

RENO CITY COUNCIL, A MUNICIPAL  
CORPORATION; DAN BURK, IN HIS  
CAPACITY AS WASHOE COUNTY  
REGISTRAR OF VOTERS; CITIZENS  
FOR PRIVATE ENTERPRISE, A  
POLITICAL ACTION COMMITTEE;  
RAY HEATING PRODUCTS, INC.;  
STEVE SCOLARI, AS TRUSTEE OF  
THE ALVIN E. SCOLARI FAMILY  
TRUST; RECORD SUPPLY COMPANY;  
SDA, INC.; CARAVAN CAMPER TOPS,  
INC.; ROSS MANOR LLC; MARTIN  
IRON WORKS, INC.; AMERICAN  
READY MIX, INC.; ELDORADO  
RESORTS, LLC; HARRAH'S

No. 39876

FILED

JUL 10 2002

BY *J. Cantello*  
JAMES W. HARDESTY  
CLERK OF SUPREME COURT  
DEPUTY CLERK

OPERATING COMPANY, INC.; THE CIRCUS AND ELDORADO JOINT VENTURE, A NEVADA GENERAL PARTNERSHIP D/B/A THE SILVER LEGACY; AND GUY B. ZEWADSKI, Real Parties in Interest.

ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION

Through this petition for a writ of mandamus or prohibition, petitioners seek to compel placement of an initiative on the November 5, 2002 City of Reno general election ballot. The initiative proposes that the following ordinance be enacted: "The City of Reno shall not construct a depressed trainway ('train trench') within the existing railroad right of way through the central portion of the City of Reno."

In the underlying action, the district court granted declaratory judgment against the initiative proponents and permanently enjoined the Washoe County Registrar of Voters from placing the initiative on the ballot for any City election.

We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted. It appears that petitioners may appeal from the district court's order,<sup>1</sup> and

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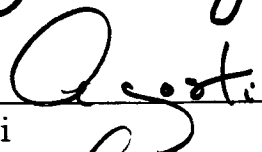
<sup>1</sup>See NRAP 3A(b)(1) and 3A(b)(2) (stating that an appeal may be taken from a final judgment, and from an order granting an injunction).

the right to appeal is a plain, speedy and adequate remedy in the ordinary course of law that precludes writ relief.<sup>2</sup>

Accordingly, we deny the petition.<sup>3</sup>

It is so ORDERED.

 J.  
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Young

 J.  
\_\_\_\_\_  
Agosti

 J.  
\_\_\_\_\_  
Leavitt

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<sup>2</sup>See NRS 34.170 (stating that a writ of mandamus may issue only where there is no plain, speedy, and adequate remedy at law); NRS 34.330 (providing that a writ of prohibition may be issued only when there is not a plain, speedy, and adequate legal remedy); see also Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 647-48 n.1, 5 P.3d 569, 570 n.1 (2000) (noting that an appeal is generally an adequate remedy).

We note that if petitioners appeal from the district court's order, petitioners may move to suspend the settlement conference requirements under NRAP 16 and to expedite the briefing schedule.

<sup>3</sup>See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). Petitioners' motion to expedite this matter is denied as moot.

cc: Hon. James W. Hardesty, District Judge  
Patricia D. Cafferata  
McDonald Carano Wilson McCune Bergin Frankovich & Hicks  
LLP/Reno  
Reno City Attorney  
Washoe County District Attorney  
Guy B. Zewadski  
Washoe District Court Clerk