

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADDISON, INC., A NEVADA  
CORPORATION,  
Petitioner,

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

CLARK COUNTY SCHOOL DISTRICT,  
A POLITICAL SUBDIVISION OF THE  
COUNTY OF CLARK, STATE OF  
NEVADA; PARSONS-FLEMING-  
TAYLOR, A JOINT VENTURE; AND  
WELLES-PUGSLEY ARCHITECTS, A  
PARTNERSHIP,  
Real Parties in Interest.

No. 40354

FILED

NOV 21 2002

CAJETTE M. GLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This petition for a writ of mandamus seeks to compel District Judge Michelle Leavitt to enter an order striking a peremptory challenge that resulted in reassignment of the underlying case to Judge Kathy Hardcastle. Having considered the petition and supporting documents, we conclude that our intervention is not warranted.

A writ of mandamus is available to compel the performance of a duty<sup>1</sup> or to control an arbitrary or capricious exercise of discretion,<sup>2</sup> if


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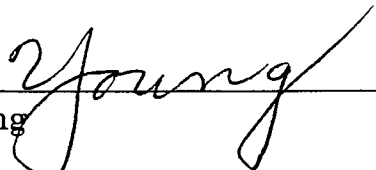
<sup>1</sup>NRS 34.160.

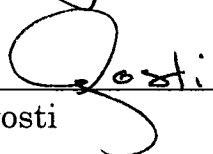
<sup>2</sup>Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

petitioner has no plain, speedy and adequate legal remedy.<sup>3</sup> Here, Judge Leavitt had no duty and did not exercise any discretion. When one of the real parties in interest filed its peremptory challenge against Judge Leavitt, the district court clerk immediately reassigned the case, and Judge Leavitt was precluded from taking any action.<sup>4</sup> In addition, petitioner has a plain, speedy and adequate legal remedy. Petitioner may file a motion in the district court to strike the peremptory challenge as untimely. Accordingly, we

ORDER the writ petition DENIED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Young

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

cc: Hon. Michelle Leavitt, District Judge  
Eric Dobberstein & Associates  
Albright Stoddard Warnick & Albright  
O'Reilly & Ferrario, LLC  
Clark County Clerk

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<sup>3</sup>NRS 34.170.

<sup>4</sup>SCR 48.1(2)(a) (requiring the court clerk in a judicial district with more than two departments to randomly reassign the case to another judge within the district within 2 days of the notice of peremptory challenge having been filed); State, Dep't Mtr. Veh. v. Dist. Ct., 113 Nev. 1338, 1341, 948 P.2d 261, 262 (1997) (holding that once the case has been reassigned, the challenged judge is divested of all jurisdiction).