

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVE MICHAEL COX,  
Petitioner,  
vs.  
JUSTICES OF THE PEACE, CARSON  
TOWNSHIP JUSTICE COURT,  
HONORABLE ROBEY B. WILLIS, AND  
JOHN TATRO,  
Respondents,  
and  
HOWARD AND SGT. MCGAFFEN,  
Real Parties in Interest.

No. 40525

FILED

APR 09 2003

JANET M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus requests that this court direct the Carson Township Justice's Court to file petitioner's civil small claims suit.

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,<sup>1</sup> or to control an arbitrary or capricious exercise of discretion.<sup>2</sup> Petitions for extraordinary relief are addressed to this court's sound discretion.<sup>3</sup>

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<sup>1</sup>NRS 34.160.

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

<sup>3</sup>Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

Petitioner contends that the Carson Township Justice's Court refuses to file his civil small claims suit, in which he seeks damages for personal property lost or damaged while incarcerated at the Northern Nevada Correctional Center (NNCC). According to the Carson Township Justice's Court's small claims filing procedure for prisoners, before the justice's court will file the claim, the prisoner must submit documentation that all administrative remedies have been exhausted. Specifically, the justice's court requires a completed Level Three Nevada Department of Prisons Inmate Grievance Response Form. Petitioner asserts that he has filed level one, two, and three grievances with NNCC officials, and they have refused to respond.

Petitioner's request for writ relief involves questions of fact as to whether NNCC officials have responded to petitioner's grievances. When disputed factual issues are critical in demonstrating the propriety of a writ of mandamus, the writ should be sought in the district court, with appeal from an adverse judgment to this court.<sup>4</sup>

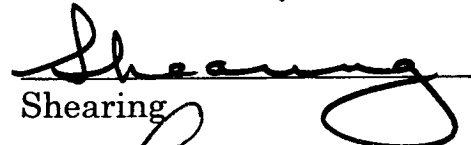
In addition, under NRAP 21(a), petitioner has the burden of providing this court with a statement of facts necessary for this court's understanding of all issues raised, and must attach all documents needed for this court to render its decision. This court cannot consider the instant petition based on petitioner's supporting documents. Petitioner did not attach originals or photocopies of original documents in support of his claim. Instead, petitioner attached documents handwritten by petitioner that appear to duplicate the originals allegedly filed with NNCC officials

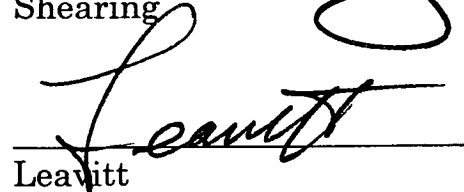
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<sup>4</sup>Round Hill Gen. Imp. Dist., 97 Nev. at 604, 637 P.2d at 536.

and the Carson Township Justice's Court. Such copies are unsuitable for this court to competently evaluate the validity of petitioner's request for writ relief. Consequently, our intervention by way of extraordinary relief is not warranted at this time. Accordingly we,

ORDER the petition DENIED.<sup>5</sup>

  
\_\_\_\_\_, J.  
Shearing

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

  
\_\_\_\_\_, J.  
Becker

cc: Hon. Robey B. Willis, Carson Township Justice Court  
Hon. John Trato, Carson Township Justice Court  
Attorney General Brian Sandoval/Carson City  
Steve Michael Cox  
Carson City Justice Court Clerk

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<sup>5</sup>Although petitioner was not granted leave to file papers in proper person, see NRAP 46(b), we have considered the proper person documents received from petitioner. We note that petitioner's failure to pay the filing fee constitutes an additional basis for denying the writ petition.