

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID E. ST. PIERRE,
Petitioner,
SMALL CLAIMS COURT OF LAKE
TOWNSHIP, IN AND FOR THE
COUNTY OF PERSHING, AND CAROL
A. NELSEN, JUSTICE OF THE PEACE,
Respondents.

No. 41305

FILED

SEP 15 2004

JANETTE M BLOOM
CLERK OF SUPREME COURT

BY *J. Rehaard*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus asks this court to order respondents to comply with this court's prior caselaw.

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,¹ or to control an arbitrary or capricious exercise of discretion.² Mandamus will not issue, however, if petitioner has a plain, speedy and adequate remedy at law.³ Further, mandamus is an extraordinary remedy, and whether a petition will be entertained is entirely within the discretion of this court.⁴

¹See NRS 34.160.

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

³NRS 34.170.

⁴Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

We have considered this petition, and we are not satisfied that our intervention by way of extraordinary relief is warranted at this time. Petitioner had an adequate remedy in the form of an appeal to the district court.⁵ Accordingly, we deny the petition.⁶

It is so ORDERED.⁷

Becker, J.
Becker

Agosti, J.
Agosti

Gibbons, J.
Gibbons

cc: Carol A. Nelsen, Justice of the Peace
David E. St. Pierre

⁵NRS 34.170 (stating that a writ of mandamus will issue only when there is no plain, speedy, and adequate remedy at law); Pan v. Dist. Ct., 120 Nev. ___, 88 P.3d 840 (2004) (recognizing that the right to appeal is generally an adequate legal remedy that precludes writ relief, notwithstanding the failure to timely appeal); see also Nev. Const. art. 6 § 6; Lippis v. Peters, 112 Nev. 1008, 1011, 921 P.2d 1248, 1250 (1996) (holding that the district courts have final appellate jurisdiction in all cases arising in justices' courts.)

⁶NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

⁷To the extent that filing fees prevent petitioner from pursuing an appeal in district court, it appears that he can apply to the district court for in forma pauperis status. See JCRCP 74B(a); NRS 19.013(2); NRS 12.015. Cf. Whitman v. Whitman, 108 Nev. 949, 840 P.2d 1232 (1992).