

IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDAL N. WIIDEMAN,
Petitioner,

vs.

WARDEN, SOUTHERN NEVADA
CORRECTIONAL CENTER; AND
DIRECTOR, NEVADA DEPARTMENT
OF CORRECTIONS,
Respondents.

No. 51325

FILED

APR 11 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF PROHIBITION OR MANDAMUS

This is an original proper person petition for a writ of prohibition or mandamus to correct alleged unfair punishment of petitioner by respondents.

A writ of prohibition or mandamus is an extraordinary remedy, and the determination of whether to consider a petition is solely within our discretion.¹ A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse of discretion.² A writ of prohibition may be issued to compel a person or body exercising judicial functions to cease performing beyond its legal authority.³

¹See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

²See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

³NRS 34.320; Smith, 107 Nev. at 677, 818 P.2d at 851.

We have consistently held that we will generally not entertain a petition for writ relief unless it is first sought in district court,⁴ particularly when there are material disputed factual issues.⁵ Petitioner failed to first file his petition for writ relief in district court. Accordingly, we deny the petition.

It is so ORDERED.⁶

 J.

Maupin

 J.

Cherry

 J.

Saitta

cc: Randal N. Wiideman
Attorney General Catherine Cortez Masto/Carson City

⁴Southwest Gas Corp. v. Public Serv. Comm'n, 92 Nev. 43, 57, 546 P.2d 219, 224-225 (1976); see also State of Nevada v. Justice Court, 112 Nev. 803, 805 n.3, 919 P.2d 401, 402 n.3 (1996); LaPorta v. Broadbent, 91 Nev. 27, 29, 530 P.2d 1404, 1405 (1975).

⁵Round Hill, 97 Nev. at 604, 637 P.2d at 536.

⁶Petitioner filed a motion to proceed in forma pauperis. Good cause appearing, we hereby waive petitioner's filing fee. NRAP 21(e).