

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN L. SCOTT,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT FAMILY COURT DIVISION OF  
THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF CLARK; THE  
HONORABLE COMMISSIONER  
JENNIFER HENRY; AND THE  
HONORABLE COMMISSIONER JON  
NORHEIM,  
Respondents,  
and  
BETTY O. HENDERSON, GUARDIAN  
OF THE ESTATE OF IDA B. WEBB,  
Real Party in Interest.

No. 51801

**FILED**

OCT 02 2008

TRAGIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original proper person petition for a writ of mandamus challenging the district court's failure to issue citations and finalize a guardianship estate.

A writ of mandamus is an extraordinary remedy, and the determination of whether to consider a petition is solely within our discretion.<sup>1</sup> A writ of mandamus is available to compel the performance of

---

<sup>1</sup>See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

an act that the law requires, or to control a manifest abuse of discretion.<sup>2</sup> The petition will only be granted when the petitioner has a clear right to the relief requested and no plain, speedy, and adequate remedy in the ordinary course of law.<sup>3</sup> Furthermore, the burden is on the petitioner to establish that mandamus relief is appropriate.<sup>4</sup>

Having reviewed the petition, the response,<sup>5</sup> and the relevant attached documents, we conclude that our intervention through extraordinary relief is not warranted. Petitioner has not shown that the district court failed to perform a required action or that it manifestly abused its discretion. Specifically, the district court did not issue the requested citation or finalize the guardianship because the guardian's address is unknown. Petitioner bears the burden of locating the guardian or the assets of the estate, not the court.<sup>6</sup> In addition, the court could not grant petitioner's request to appoint a public administrator for purposes of

---

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

<sup>3</sup>Gumm v. State, Dep't of Education, 121 Nev. 371, 375, 113 P.3d 853, 856 (2005).

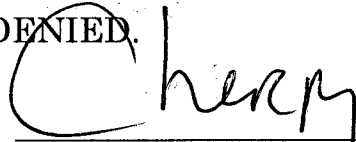
<sup>4</sup>Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004); NRAP 21(a).

<sup>5</sup>We grant Commissioner Jon Norheim's motion to file a response to this petition and direct the clerk of this court to detach the response attached to the motion as Exhibit A and file it. We remind counsel that a proposed response should be submitted with, but separately from, the motion for leave to file it. In addition, we direct the clerk of this court to amend the caption on this court's docket to conform to the caption on this order.


<sup>6</sup>See, e.g., NRS 159.1905.

administering the ward's estate in this guardianship case; petitioner must file a separate action regarding that matter. Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Jennifer Henry, Commissioner  
Hon. Jon Norheim, Commissioner  
Steven L. Scott  
Attorney General Catherine Cortez Masto/Carson City  
Attorney General Catherine Cortez Masto/Las Vegas  
Eighth District Court Clerk