

IN THE SUPREME COURT OF THE STATE OF NEVADA


FRANK ORTIZ,  
Petitioner,

vs.

NEVADA BOARD OF PAROLE  
COMMISSIONERS, ITS CHAIRMAN;  
THE STATE OF NEVADA,  
DEPARTMENT OF MOTOR VEHICLES  
AND PUBLIC SAFETY; DIVISION OF  
PAROLE & PROBATION; AND ITS  
DIRECTOR,  
Respondents.

No. 53327

**FILED**

APR 09 2009  
TRADIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus seeks to compel the correction of allegedly incorrect information in petitioner's presentencing investigation report, a recalculation of petitioner's parole success likelihood factors, and a reconsideration of a 2006 decision regarding petitioner's application for parole once that allegedly incorrect information is corrected.

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, or to control a manifest abuse of discretion. See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Mandamus will not issue when the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170. A writ of mandamus is an extraordinary remedy, and whether a petition for extraordinary relief will be considered is solely within our discretion. See Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is petitioner's burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Moreover, this court has held that a petition for extraordinary relief is not an

appropriate vehicle for resolving disputed questions of fact. Round Hill, 97 Nev. at 604, 637 P.2d at 536.

Here, we conclude that addressing the merits of this petition would necessarily require this court to make factual determinations for which this court is not the appropriate forum. Id. Accordingly, we conclude that our intervention by way of extraordinary relief is not warranted, and we order the petition denied. See Smith, 107 Nev. at 677, 818 P2d at 851; NRAP 21(b).

It is so ORDERED.<sup>1</sup>

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

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<sup>1</sup>A previous petition for extraordinary relief addressing the issues raised in this petition was denied by this court, with a direction that petitioner file his petition in the district court. *Ortiz v. Nevada Board of Parole Commissioners*, Docket No. 51438 (Order Denying Petition, May 5, 2008). Rather than filing his petition as a new civil action, however, petitioner apparently filed his petition as part of his criminal case, and the petition was apparently dismissed. This petition followed. We note that, in seeking extraordinary relief in the district court, petitioner should file his petition for a writ of mandamus as a new civil action, not as part of his criminal case. Once this petition is resolved, petitioner, if aggrieved, may file a timely appeal to this court from the final judgment in the district court action. See NRAP 3A(b)(1) (providing for an appeal from a final judgment in an action originated in the district court).

We grant petitioner's motion for leave to proceed in forma pauperis. Accordingly, no filing fee is due. NRAP 21(e).

cc: Frank Ortiz  
Attorney General Catherine Cortez Masto/Carson City  
Eighth District Court Clerk