

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENT SPEAR,
Petitioner,
vs.
NEVADA DEPARTMENT OF
CORRECTIONS AND HIGH DESERT
STATE PRISON,
Respondents.

No. 63043

FILED

SEP 20 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK


*ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR WRIT OF PROHIBITION*


This is a proper person petition for a writ of mandamus or prohibition seeking an order directing respondents to release petitioner on parole.

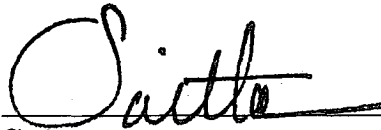
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. *See* NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. *See* NRS 34.320; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is within this court's sole discretion to determine if a writ petition will be considered. *Smith*, 107 Nev. at 677, 818 P.2d at 851. Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition, we conclude that our intervention by extraordinary writ relief is not warranted. See NRS 34.160; NRS 34.320; *Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we

ORDER the petition DENIED.


Gibbons, J.


Douglas, J.


Saitta, J.

cc: Kent Spear
Attorney General/Carson City