

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

YOSEF LE ROI MUSTAFANOS,
Petitioner,
vs.
THE THIRD JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF LYON;
AND THE HONORABLE LEON
ABERASTURI, DISTRICT JUDGE,
Respondents,
and
ATTORNEY DAVID O'MARA;
TRUSTEE CHRISTINA LOVATO; WTI
AUTO ELECTRIC METAL
RECYCLING; JEFFERY CARROLL;
DEBORAH STRODE; LAHONTAN
PROPERTIES; AND LEANDRA CARR,
Real Parties in Interest.

No. 75210

FILED

MAR 28 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS AND PROHIBITION*

This is an original petition for a writ of mandamus and prohibition. 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).

This court has discretion as to whether to entertain a petition for extraordinary relief and will not do so when the petitioners have a plain, speedy, and adequate remedy at law. NRS 34.170; NRS 34.330; *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition and the record, we conclude that petitioner has failed to demonstrate that extraordinary writ relief is warranted. *See id.* Accordingly, we deny the petition.¹ *See* NRAP 21(b)(1); *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737.²

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Gibbons

cc: Hon. Leon Aberasturi, District Judge
Yosef Le Roi Mustafanos
Handelin Law Ltd.
Christina Lovato
O'Mara Law Firm, P.C.
Third District Court Clerk

¹In light of this order, we deny as moot petitioner's "emergency" motion for stay filed March 19, 2018.

²The Honorable Jerome Tao, Judge, voluntarily recused himself from participation in the decision of this matter.