

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ERVIN MIDDLETON, JR.,
Petitioner,

vs.

THE STATE OF NEVADA SECRETARY
OF STATE; AND KIMBERLEY
PERONDI, DEPUTY SECRETARY OF
STATE FOR COMMERCIAL
RECORDINGS,
Respondents.

No. 74780

FILED

FEB 27 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus seeks an order requiring the Nevada Secretary of State to obey the Nevada Rules of Civil Procedure and specifically, to effect service on two defendants to a district court case.

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). A writ of mandamus will not issue, however, if the petitioner has a plain, speedy, and adequate remedy at law. *See* NRS 34.170; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558. Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *See Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). Petitioner bears the burden of demonstrating that


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extraordinary relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the documents before us, we conclude that petitioner has failed to demonstrate that extraordinary writ relief is warranted. *See id.* Accordingly, we deny the petition. *See* NRAP 21(b)(1); *Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Ervin Middleton, Jr.
Attorney General/Carson City
Eighth District Court Clerk