

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GINO LOPINTO, ADMINISTRATOR OF
THE ESTATE OF MARIA LOPINTO;
AND GINO LOPINTO, INDIVIDUALLY,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; THE HONORABLE JERRY A.
WIESE, DISTRICT JUDGE; AND THE
HONORABLE CAROLYN
ELLSWORTH, DISTRICT JUDGE,

Respondents,

and

EDWARD E. HOLDEN, M.D.; AND
CARDIOVASCULAR CONSULTANTS
OF NEVADA, LLP,
Real Parties in Interest.

No. 74627

FILED

JAN 29 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS*


This original petition for a writ of mandamus challenges a department assignment and seeks an order granting a district court jurisdiction to consider a contempt motion.

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). Writ relief is typically not available, however, when the petitioners have 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. Moreover, whether to consider a writ petition is within this court's

discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). And petitioners bear 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, we conclude that petitioners have 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.¹


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Jerry A. Wiese, District Judge
Hon. Carolyn Ellsworth, District Judge
Simon Law
Daehnke Stevens, LLP
Mandelbaum, Ellerton & Associates
Schuering Zimmerman & Doyle LLP
Eighth District Court Clerk

¹The Honorable Abbi Silver, Chief Judge, voluntarily recused herself from participating in the decision of this matter.