

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GAVIN COX; AND MIHN-HAHN COX,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MARK R. DENTON, DISTRICT JUDGE,
Respondents,

and

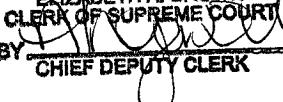
MGM GRAND HOTEL, LLC; DAVID
COPPERFIELD'S DISAPPEARING,
INC.; DAVID COPPERFIELD;
BACKSTAGE EMPLOYMENT AND
REFERRAL, INC.; AND TEAM
CONSTRUCTION MANAGEMENT,
INC.,

Real Parties in Interest.

No. 75762

FILED

MAY 07 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This emergency original petition for a writ of mandamus challenges a district court ruling allowing the jury to view the location where the subject incident occurred.

Having considered this petition and the appendix, we are not satisfied that this court's intervention by way of extraordinary relief is warranted. *See* NRAP 21(b); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). In particular, trial is underway and petitioners have an adequate and speedy legal remedy in the form of an appeal from any adverse final judgment, precluding writ relief. NRS 34.170; NRS 34.330; *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 225, 88 P.3d 840, 841 (2004); *see also Archon Corp. v. Eighth Judicial Dist. Court*,

133 Nev., Adv. Op. 101, 407 P.3d 702, 706 (2017) (recognizing that “[a] writ of mandamus is not a substitute for an appeal,” but rather, the writ should be used sparingly, “for extraordinary causes”). Accordingly, we

ORDER the petition DENIED.¹


Tao, J.


Gibbons, J.

SILVER, J., dissenting:

I respectfully dissent. Just because during trial, through juror questioning, a juror(s) requested a jury view, it does not mean that the district court should grant such a request. Here, petitioners have already rested their case-in-chief. This isn't a situation in which one side or the other requested, prior to trial, through a motion in limine, for a jury view—whereby the pros and cons could be argued thoughtfully to the district court. Here, both sides have prepared for trial based on the photographs, video, and discovery conducted during the years of pretrial litigation. Many years have passed, the area is substantially different from when petitioner fell, and viewing the area in the daylight are all factors that contribute, in my

¹We note that petitioners' certificate of service does not establish that this petition has been served on the respondent district judge, as required. NRAP 21(a)(1).

view, to the irreparable harm petitioners may face with regard to this unfair procedure after resting their case. Therefore, I respectfully dissent and I would grant a writ prohibiting the jurors from viewing the scene at this late juncture of the trial as being untimely and unfair.

Silver, J.
Silver

cc: Hon. Mark R. Denton, District Judge
Morelli Law Firm PLLC
Harris & Harris
Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC
Selman Breitman, LLP/Las Vegas
Resnick & Louis, P.C.
Eighth District Court Clerk