

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL B. LEE, P.C.,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JAMES CROCKETT, DISTRICT
JUDGE,
Respondents.

No. 75361

FILED

JUN 05 2018

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

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION*

This is an original petition for a writ of mandamus or prohibition challenging a district court oral ruling imposing sanctions on petitioner.

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 prohibition may be warranted when a district court acts without or in excess of its jurisdiction. NRS 34.320; *Club Vista Fin. Servs., LLC v. Eighth Judicial Dist. Court*, 128 Nev. 224, 228, 276 P.3d 246, 249 (2012). This court has discretion as to whether to entertain a petition for extraordinary relief and will not do so when the petitioner has 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).

The sanctions ruling petitioner challenges in this petition was made at a motion in limine hearing that had become moot in light of the parties' agreement to settle the underlying matter. And because petitioner did not attend the hearing in light of the settlement, the propriety of these sanctions was not challenged at that hearing. But there is nothing in the record before us to indicate that petitioner ever subsequently sought relief from these sanctions in the district court prior to filing this petition or that such a request was ever ruled on, much less denied, by the district court.


Under these circumstances, we decline to address this issue in the first instance as petitioner has a speedy and adequate remedy available in that he can challenge the sanctions by filing a motion for relief with the district court.¹ NRS 34.170 (providing that mandamus relief is available where there is no plain, speedy and adequate remedy at law); NRS 34.330 (providing that a writ of prohibition is available where there no plain,


¹Nothing in this order shall preclude petitioner from filing a new writ petition in the event that he is aggrieved by any ultimate ruling from the district court on a request for relief from the sanctions at issue here.

We further note that appellate review of any such writ petition would be facilitated by the entry and inclusion in the record of written, file stamped orders memorializing both the initial sanctions ruling and any ruling on subsequent requests for relief from these sanctions.

speedy and adequate remedy at law). Accordingly, we deny the petition.
See NRAP 21(b)(1); *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James Crockett, District Judge
Michael B. Lee, P.C.
Eighth District Court Clerk