

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RICHARD LEE CANTERBURY,  
Petitioner,  
vs.  
THE FIFTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF NYE,  
Respondent.

No. 77740-COA

FILED

MAR 23 2013

ELIZABETH A. JONES  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER DENYING PETITION FOR WRIT OF MANDAMUS*

This is an original petition for a writ of mandamus seeking to require the district court to serve the summons and complaint.<sup>1</sup>

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

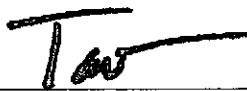
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<sup>1</sup>Although the document petitioner filed with the appellate courts is styled as a motion, given the relief the petitioner seeks, we construe it as a petition for a writ of mandamus.


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.<sup>2</sup>

It is so ORDERED.

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

cc: Richard Lee Canterbury  
Attorney General/Carson City  
Nye County Clerk

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<sup>2</sup>In light of this order, we deny as moot petitioner's motion for appointment of counsel.