

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RICHARD JASON DEUTCH,

Petitioner,

vs.

THE FIFTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF NYE;  
THE HONORABLE KIMBERLY A.  
WANKER, DISTRICT JUDGE; JUSTICE  
COURT OF PAHRUMP TOWNSHIP;  
AND THE HONORABLE KENT  
JASPERSON, JUSTICE OF THE  
PEACE,

Respondents,

and

THE STATE OF NEVADA,

Real Party in Interest.

No. 81548-COA

**FILED**

OCT 09 2020

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

*ORDER DENYING PETITION*

This original petition for a writ of mandamus, or alternatively prohibition, or alternatively certiorari challenges the validity of Richard Jason Deutch's conviction in the justice court. Deutch contends he is entitled to relief on four grounds: (1) he is entitled to a new trial before a jury pursuant to *Andersen v. Eighth Judicial Dist. Court*, 135 Nev. 321, 448 P.3d 1120 (2019); (2) the investigation conducted by the Sheriff's Office was unconstitutional; (3) insufficient evidence supported his conviction; and (4) the justice of the peace erred by denying Deutch's request for a change of venue.

A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust, or station, NRS 34.160, or to control a manifest abuse or arbitrary or

capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. NRS 34.320. And, a petition for a writ of certiorari is limited to instances where the lower court has exceeded its jurisdiction and there is no appeal. NRS 34.020(2).<sup>1</sup> None of these writs will issue if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.020(2); NRS 34.170; NRS 34.330. Petitions for extraordinary writs are addressed to the sound discretion of the court, see *Zamarripa v. First Judicial Dist. Court*, 103 Nev. 638, 640, 747 P.2d 1386, 1387 (1987); *State ex rel. Dep't of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983), and the “[p]etitioner[ ] carr[ies] the burden of demonstrating that extraordinary relief is warranted,” *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

As to his request for a jury trial, Deutch does not identify any duty of the lower courts that is especially enjoined by the law to grant him a new trial before a jury, nor does he explain how the lower courts exceeded their jurisdiction by not granting him a new trial before a jury. Further, he has not demonstrated that the justice court manifestly abused its discretion or exercised its discretion in an arbitrary and capricious manner when it denied his untimely motion for new trial. And while Deutch states he has appealed this decision to the district court, he has not provided this court

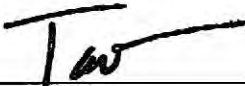
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<sup>1</sup>A writ of certiorari may also be granted where the district court has addressed the constitutionality of a statute or ordinance on appeal from a final judgment in a justice or municipal court. NRS 34.020(3). Deutch does not allege this as a ground for relief.

with the district court's decision. As to the remaining claims, Deutch had a plain, speedy, and adequate remedy: a direct appeal to the district court. For the foregoing reasons, we conclude Deutch has failed to demonstrate that this court's intervention by way of extraordinary relief is warranted, and we

ORDER the petition DENIED.

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

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

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

cc: Hon. Kent Jasperson, Justice of the Peace  
Hon. Kimberly A. Wanker, District Judge  
Aldrich Law Firm, Ltd.  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk