

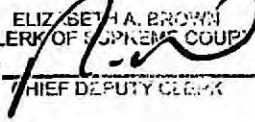
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FRANK MILFORD PECK,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; THE STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS;  
AND THE HONORABLE KERRY  
LOUISE EARLEY, DISTRICT JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 81742-COA

FILED

NOV 09 2020

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

*ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS*

This original petition for a writ of mandamus seeks to compel the district court to act on petitioner's underlying case following the reversal and remand of an order granting dismissal and summary judgment in favor of real party in interest.

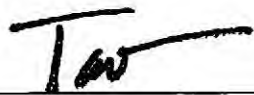
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). But writ relief is typically not available when 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. Moreover, whether such a petition will be considered rests within our sound discretion. See *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849,

851 (1991). 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).

Having considered the petition, we conclude petitioner has not demonstrated that extraordinary writ relief is warranted. *See id.* Accordingly, we deny the petition. *See Smith*, 107 Nev. at 677, 818 P.2d at 851; NRAP 21(b)(1).

It is so ORDERED.

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

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

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

cc: Hon. Kerry Louise Earley, District Judge  
Frank Milford Peck  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk