

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILBER ERNESTO MARTINEZ
GUZMAN,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
CONNIE J. STEINHEIMER, DISTRICT
JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 82342

FILED

JUN 08 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus challenges a district court order setting a deadline for an NRS 174.098 motion that is more than 10 days before the scheduled trial date. Without deciding upon the merits of any claims raised in the documents submitted in this matter, we decline to exercise our original jurisdiction at this time. See NRS 34.160; NRS 34.170; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (recognizing that issuance of a writ of mandamus is within this court's discretion). Petitioner's argument is premature because he has not filed an NRS 174.098 motion and the district court has not declined to consider any such motion based on the failure to comply with a deadline. Cf. *Jones v. Nev. Comm'n on Jud. Discipline*, 130 Nev. 99, 107-10, 318 P.3d 1078, 1083-85 (2014) (denying an original writ of mandamus challenging timing concerns and procedural violations as premature where a formal hearing had not taken place and an appeal could be taken).

Additionally, arguments challenging the deadline have not been adequately presented to or considered by the district court in the first instance. See *Archon Corp. v. Eighth Judicial Dist. Court*, 133 Nev. 816, 822, 407 P.3d 702, 708 (2017) (“[I]n the context of extraordinary writ relief, consideration of legal arguments not properly presented to and resolved by the district court will almost never be appropriate.”). Accordingly, we deny the petition without prejudice.

It is so ORDERED.¹

Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Silver, J.
Silver

Pickering, J.
Pickering

Herndon, J.
Herndon

¹We lift the stay previously imposed by this court.

CADISH, J., dissenting:

I dissent. I would entertain the petition.

Cadish, J.
Cadish

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Douglas County District Attorney/Minden
Washoe District Court Clerk