

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY CLARKE,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 83919

FILED

JAN 03 2022

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

ORDER DENYING PETITION

This pro se original petition for a writ of mandamus seeks to compel the district court to hold a hearing or begin proceedings on petitioner's postconviction petition for a writ of habeas corpus.

On September 23, 2021, the district court issued an order directing petitioner to amend his postconviction petition for a writ of habeas corpus to provide proof of service upon the Northern Nevada Correctional Center Warden and the Nevada Attorney General, in accordance with the requirements set forth in NRS 34.730(2). A writ of mandamus is available only to compel the performance of a legally required act or to cure an arbitrary and capricious exercise of discretion. *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). It is petitioner's burden to demonstrate that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Here, petitioner has not shown that the district court has

failed to perform a legally required act or has arbitrarily or capriciously exercised its discretion. Accordingly, we

ORDER the petition DENIED.¹

Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Anthony Clarke
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹We take no action on petitioner's motion for leave to proceed in forma pauperis filed on December 15, 2021.