

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAYMOND CHRISTOPHER SHARPE,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK,
Respondent.

No. 86571-COA

FILED

NOV 13 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER GRANTING PETITION

In his original petition for a writ of mandamus, Raymond Christopher Sharpe seeks an order directing the district court to conduct a hearing so that he can request to represent himself or to request substitute counsel.

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 mandamus will not issue, however, if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170. Petitions for extraordinary writs are addressed to the sound discretion of the court, see *State ex rel. Dep't of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983), and “[p]etitioners carry 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).

In his petition, Sharpe contended that he wished to represent himself or to be provided substitute counsel because he believed his counsel was refusing to raise certain issues before the district court. Sharpe also submitted a motion he attempted to file in the district court and that was received by the district court clerk on April 24, 2023. The motion was rejected by the district court clerk because Sharpe was represented by counsel. In that motion, Sharpe sought permission to proceed in pro se and requested permission to raise claims concerning issues that were not addressed by his appointed counsel.

This court directed the State, on behalf of respondent, to file an answer to Sharpe's petition. In its answer, the State asserted that Sharpe filed a postconviction petition for a writ of habeas corpus and that the claims he raises in the instant petition for a writ of mandamus concern appointed postconviction counsel. The State also asserted that it had discussed this matter with Sharpe's postconviction counsel and, based on the discussion with counsel, any issues between counsel and Sharpe appeared to be resolving such that counsel can continue to represent Sharpe. The State therefore contended that this court's intervention is not warranted at this time.

Under the circumstances presented, we conclude Sharpe has no other adequate remedy at law for raising his claim, and we exercise our discretion to entertain the petition. The district court clerk rejected Sharpe's motion pursuant to EDCR 3.70 because he was represented by counsel. However, EDCR 7.40(b)(2) permits a client to request that the district court permit a change in counsel. Given the nature of Sharpe's request, we conclude that the district court clerk should have filed Sharpe's motion seeking permission to proceed in pro se. Moreover, the State failed

to present any evidence in support of its assertion in its answer that any problems between Sharpe and appointed counsel had been adequately resolved.

For the foregoing reasons, we conclude that extraordinary relief is warranted, and we direct the district court clerk to file Sharpe's motion so as to permit Sharpe to raise his underlying issues with the district court. Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the clerk of the district court to file Sharpe's April 24, 2023, motion in district court case number C-11-274805-1.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Raymond Christopher Sharpe
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk