

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EVA SANCHEZ.

Petitioner.

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA.

IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
NADIA KRALL, DISTRICT JUDGE,

Respondents.

and

FELINA BANKS; GREGORY GARRETT;
ARMANI RUSHING; AND K. G.-B., A
MINOR BY AND THROUGH
GUARDIAN AD LITEM, FELINA
BANKS.

Real Parties in Interest.

No. 86799-COA

FILED

DEC 20 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order denying a motion to dismiss a tort action for failure to timely effect service of process.

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). A writ of mandamus will not issue, however, if 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. Further, mandamus is an extraordinary remedy, and it is within the

23-41338

discretion of this court to determine if a petition will be considered. *See Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991).

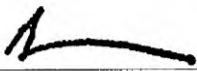
This court generally declines to consider writ petitions challenging district court orders denying motions to dismiss unless no factual dispute exists and the district court was obligated to dismiss the action pursuant to clear authority or the writ would promote judicial economy by clarifying an important issue of law. *Int'l Game Tech.*, at 197-98, 179 P.3d at 558-59. The existence of a future right to appeal is ordinarily sufficient to deny writ relief. *See State of Nev. v. Second Judicial Dist. Court (Ducharm)*, 118 Nev. 609, 614, 55 P.3d 420, 423 (2002). Petitioner bears the burden to show that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004).

Petitioner argues that the district court abused its discretion when it found good cause for both the untimely filing of a motion to enlarge the time for service and for granting an enlargement of time. Additionally, petitioner argues that the district court abused its discretion when it found that real parties in interest exercised due diligence before resorting to substitute service through the Department of Motor Vehicles.

Based on our review of the documents before us, we conclude petitioner has not demonstrated that our extraordinary intervention is warranted. NRS 34.160: *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558; *Pan*, 120 Nev. at 224, 228, 88 P.3d at 841, 844. Accordingly, we deny the petition.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Nadia Krall, District Judge
Resnick & Louis, P.C./Las Vegas
Clark Law Group, PLLC
McMenemy Holmes PLLC
Eighth District Court Clerk