

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEXANDER DIFOGGIO-WASSON,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
BARRY L. BRESLOW, DISTRICT
JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 87628

FILED

JAN 16 2024

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 denying petitioner Alexander Difoggio-Wasson's petition for extraordinary relief, in which Difoggio-Wasson challenged the constitutionality of his bail setting.¹

"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, NRS 34.160, or to control a manifest abuse or arbitrary or capricious exercise of discretion." *State v. Eighth Judicial Dist. Court (Armstrong)*, 127 Nev. 927, 931, 267 P.3d 777, 779 (2011). "Mandamus relief

¹Difoggio-Wasson alternatively seeks a writ of prohibition but does not cogently argue that the district court acted without or in excess of its jurisdiction. Therefore, a writ of prohibition is not appropriate. See NRS 34.320; *Goicoechea v. Fourth Judicial Dist. Court*, 96 Nev. 287, 289, 607 P.2d 1140, 1141 (1980) (holding that a writ of prohibition "will not issue if the court sought to be restrained had jurisdiction to hear and determine the matter under consideration").

is available only if a petitioner lacks a plain, speedy, and adequate legal remedy.” *Johnston v. Eighth Judicial Dist. Court*, 138 Nev., Adv. Op. 67, 518 P.3d 94, 100 (2022) (citing NRS 34.170).

After a hearing, where Difoggio-Wasson was present, represented by counsel, and able to make argument and present evidence, the justice court set bail at \$10 million. Difoggio-Wasson moved the justice court for a reasonable bail setting, and another hearing was held, after which bail remained unchanged. Difoggio-Wasson then filed a petition for a writ of mandamus or, in the alternative, writ of prohibition in the district court, arguing that the bail setting was an unconstitutional detention order and asking that the justice court be ordered to set bail in a reasonable amount. A hearing was held, and the district court denied Difoggio-Wasson’s petition. Difoggio-Wasson argues the district court erroneously denied his writ petition. He requests a writ directing the district court to (1) rule that his proffered collateral, along with release conditions, be accepted as bail, or (2) direct the justice court to set bail in an amount not to exceed \$150,000, along with release conditions.

Difoggio-Wasson could have appealed from the district court’s order denying the petition. See NRS 2.090(2) (providing that “an order granting or refusing to grant . . . mandamus” is appealable); NRAP 3A(b)(1) (“An appeal may be taken from . . . [a] final judgment entered in an action or proceeding commenced in the [district] court in which the judgment is rendered.”); *City of Reno v. Howard*, 130 Nev. 110, 112-13, 318 P.3d 1063, 1064 (2014) (recognizing that a district court order denying a mandamus petition is an appealable final judgment where the petition is the only issue before the district court). Instead, he filed the instant writ petition.

Because Difoggio-Wasson had a plain, speedy, and adequate remedy at law, mandamus is not available.

Accordingly, we

ORDER the petition DENIED.

Stiglich, J.
Stiglich

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

cc: Hon. Barry L. Breslow, District Judge
Chesnoff & Schonfeld
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk