

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GEORGE ANGELO ROSENTHAL,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
TIERRA DANIELLE JONES, DISTRICT
JUDGE,

Respondents,

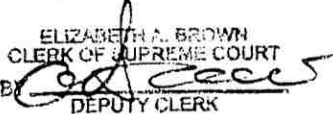
and

THE STATE OF NEVADA,
Real Party in Interest.

No. 87099-COA

FILED

JAN 30 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION

In this petition for a writ of mandamus, George Angelo Rosenthal seeks an order directing the district court to reinstate Rosenthal's guilty plea agreement. Rosenthal claims the district court abused its discretion when it denied his motion to reinstate his plea agreement.

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, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *See Poulos v. Eighth Jud. Dist. Ct.*, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); *see also State ex rel. Dep't of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983).

“Petitioner[] carr[ies] the burden of demonstrating that extraordinary relief is warranted.” *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Over the course of several hearings, Rosenthal pleaded guilty to reduced charges and then orally moved to withdraw his guilty plea. The State agreed to the withdrawal, and the Honorable Judge Mary Kay Holthus orally granted Rosenthal’s motion in open court on July 13, 2021. Thereafter, appointed counsel withdrew, new counsel was appointed, and Rosenthal’s case was transferred to a different department. In March 2023, with the assistance of his new counsel, Rosenthal filed a motion in the new department to reinstate his guilty plea agreement and requested an evidentiary hearing. In his motion, Rosenthal alleged that Judge Holthus had no legal basis to order his plea be withdrawn and that she did not conduct an adequate inquiry into his claim that he had a conflict and breakdown of communication with counsel. He concluded by asking the district court to reinstate and enforce his guilty plea agreement. The presiding judge, the Honorable Judge Tierra Jones, denied Rosenthal’s motion without conducting an evidentiary hearing.

Rosenthal fails to demonstrate that Judge Jones was required to grant his motion to reinstate his guilty plea or that she manifestly abused or arbitrarily or capriciously exercised her discretion in denying the motion. EDCR 7.10(b) states,

When any district judge has begun a trial or hearing of any cause, proceeding or motion, or made any ruling, order or decision therein, no other judge may do any act or thing in or about such cause, proceeding or motion, unless upon the request of the judge who has begun the trial or hearing of such cause, proceeding or motion.

Judge Holthus ordered that Rosenthal's oral motion to withdraw his guilty plea be granted. Because Rosenthal's motion before Judge Jones directly challenged the ruling of Judge Holthus, Judge Jones was prohibited by EDCR 7.10(b) from making any ruling that would contravene that of Judge Holthus absent a request from Judge Holthus. *See State v. Beaudion*, 131 Nev. 473, 477, 352 P.3d 39, 42 (2015) ("[O]ne district judge may not directly overrule the decision of another district judge on the same matter in the same case . . ."). As there is no allegation that Judge Holthus made such a request, we conclude Rosenthal is not entitled to mandamus relief. Accordingly, we

ORDER the petition DENIED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Tierra Danielle Jones, District Judge
Wright Marsh & Levy
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk