

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALI KIA, M.D.,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
CRYSTAL ELLER, PRESIDING JUDGE,
Respondents,


and

CHOLOE GREEN; FRANK J. DELEE,
M.D.; FRANK J. DELEE M.D., P.C.;
SUNRISE HOSPITAL AND MEDICAL
CENTER, LLC; AND NEVADA
HOSPITALIST GROUP, LLP,
Real Parties in Interest.

No. 87300

FILED

MAR 20 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER DENYING PETITION IN PART
AND GRANTING PETITION IN PART*

This original petition for a writ of mandamus challenges a district court order denying a motion for summary judgment and a subsequent order imposing sanctions.

In May 2023, the district court denied petitioner Ali Kia's motion for summary judgment. Then in August 2023, the district court sanctioned Kia by awarding roughly \$7,800 in attorney fees to real party in interest Choloe Green.¹ The basis for the sanction was the district court's perception that Kia's summary judgment motion was substantively identical to a previous motion that Kia had filed with another presiding

¹The other real parties in interest are not involved in this original proceeding.

judge and that Kia was simply “forum shopping.” In this writ petition, Kia challenges both the summary judgment order and the sanctions order.

With respect to the summary judgment order, we are not persuaded that our extraordinary and discretionary intervention is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (stating that the party seeking writ relief bears the burden of showing such relief is warranted); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991) (recognizing that writ relief is an extraordinary remedy and that this court has sole discretion in determining whether to entertain a writ petition). Namely, Kia’s arguments in this writ petition are the same as (and perhaps even less-developed than) the arguments Kia raised in a previous writ petition, where we also declined to entertain the petition. *See Kia v. Eighth Judicial Dist. Court*, No. 83357, 2022 WL 1536937 (Nev. May 13, 2022) (Order Denying Petition). Although Kia argues that an appeal from a final judgment will force Kia to incur additional litigation expenses, that prospect does not change the fact that Kia has an adequate legal remedy via an appeal from a final judgment. *See Pan*, 120 Nev. at 224, 88 P.3d at 841 (observing that an appeal is an adequate legal remedy generally precluding writ relief); *cf. Hansen v. Eighth Judicial Dist. Court*, 116 Nev. 650, 658, 6 P.3d 982, 986-87 (2000) (recognizing, albeit in the context of a request for a stay, that the prospect of incurring litigation expenses does not rise to the level of warranting this court’s intervention).

With respect to the sanctions order, however, we conclude that our intervention is warranted. Kia argues that the district court failed to afford Kia due process by entering the sanctions order without giving Kia notice or an opportunity to be heard. We agree that the district court

violated Kia's due process rights. *Cf. Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007) (“[P]rocedural due process requires notice and an opportunity to be heard.” (internal quotation marks omitted)); *Valley Health Sys., LLC v. Estate of Doe*, 134 Nev. 634, 647, 427 P.3d 1021, 1032 (2018) (observing that due process principles apply to the imposition of sanctions). The record reflects that the district court's May 2023 order stated that the court was “considering sanctions” and then, without affording Kia an opportunity to be heard, the court entered the August 2023 order imposing sanctions. Green relies on *Valley Health System, LLC v. Estate of Doe*, 134 Nev. 634, 647-48, 427 P.3d 1021, 1032-33 (2018), for the proposition that a motion for reconsideration can cure any procedural due process violation because the sanctioned entity had the opportunity to fully brief the sanctions issue in its motion. But Kia filed no such motion here, and *Valley Health* does not stand for the proposition that Kia had a duty to cure the due-process violation by filing a motion for reconsideration. Accordingly, Kia is entitled to writ relief with respect to the sanctions order. *See Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (“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.”).

Consistent with the foregoing, we

ORDER the petition DENIED IN PART AND GRANTED IN PART and direct the clerk of this court to issue a writ of mandamus directing the district court to vacate its August 8, 2023, Order Regarding Admonishment and Sanctions Against Defendant Ali Kia, M.D.

Stiglich, J.
Stiglich

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

cc: Hon. Crystal Eller, District Judge
Naylor & Braster
Collinson, Daehnke, Inlow & Greco
Law Office of Daniel Marks
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Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Hall Prangle & Schoonveld, LLC/Las Vegas
Eighth District Court Clerk