



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

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Elizabeth A. Brown
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Steven D. Grierson
Clerk of the Court

July 19, 2021

Elizabeth A. Brown
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: STATE OF NEVADA vs. ALAN DEMETRIUS DANIELS
S.C. CASE: 83186
D.C. CASE: 99C156246

Dear Ms. Brown:

Pursuant to your Order Directing Entry and Transmission of Written Order, dated July 15, 2021, enclosed is a certified copy of the Order Denying Defendant's Petition for Writ of Prohibition filed July 16, 2021 in the above referenced case. If you have any questions regarding this matter, please do not hesitate to contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

A handwritten signature in black ink that reads "Heather Ungermann". The signature is written in a cursive style with a long horizontal flourish at the end.

Heather Ungermann, Deputy Clerk

1 **ORDR**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 THE STATE OF NEVADA,

5 Plaintiff

6 v.

7 ALAN D DANIELS,

8 Defendant

Case No.: 99C156246

Dept. No.: XXV

9
10 **ORDER DENYING DEFENDANT'S PETITION FOR WRIT OF PROHIBITION**

11 THIS MATTER having come on for hearing before the above entitled Court on the
12 30th day of June, 2021, the Defendant not being present, IN PROPER PERSON, the Plaintiff
13 being represented by STEVEN B. WOLFSON, District Attorney, through JOHN T. JONES,
14 JR., Chief Deputy District Attorney, and the Court without argument took under advisement,
15 based on the pleadings and good cause appearing, the Court hereby finds and orders as
16 follows:

17 The Petitioner requests that the Court issue a Writ of Prohibition that would
18 command the Nevada Department of Corrections (NDC) to cease and desist from removing
19 funds from the inmate account. The Petitioner argues that the NDC lacks the authority to
20 seize money from his account to enforce restitution payment since jurisdiction is vested
21 solely with the Court pursuant to NRS 176.275. However, there is no entitlement to relief
22 because the Writ of Prohibition is not the correct mechanism to be utilized in these
23 circumstances.

24 A writ of prohibition may be used by a court to order a "tribunal, corporation, board
25 or person exercising judicial functions" to refrain from doing an act in excess of its
26 jurisdiction. NRS 34.320. While there may be an argument that there is some seizure of
27 funds occurring that is a remotely related to or a natural consequence of a judicial function,
28 the Court is not persuaded by that argument. As argued by the State, the NDC is not a

1 judicial body, but rather an agency within the executive branch of Nevada’s state
2 government. NDC engaging in its practices to take funds out of the inmate’s account to pay
3 restitution does not constitute a judicial function that would result in this Court having
4 jurisdiction to issue a writ of prohibition.

5 A writ of prohibition may only issue “where there is not a plain, speedy and adequate
6 remedy in the ordinary course of law.” NRS 34.330; *see also Sonia F. v. Eighth Jud. Dist.*
7 *Ct.*, 125 Nev. 495, 498, 215 P.3d 705, 707 (2009). As argued by the State, that is not the case
8 here. If Defendant wishes to challenge the seizure of funds in his inmate account by the
9 NDC, he may avail himself of administrative remedies or file a civil lawsuit alleging trespass
10 to property or conversion. Further, if he believes that he can demonstrate that the NDC’s
11 actions have “deprive[d] him of a right, privilege, or immunity protected by the Constitution
12 or laws of the United States,” he may also be able to file a civil rights complaint pursuant to
13 42 U.S.C. § 1983. *Butler ex rel. Biller v. Bayer*, 123 Nev. 450, 458, 168 P.3d 1055, 1061
14 (2007).

15 Accordingly, IT IS HEREBY ORDERED that the Defendant’s Petition for Writ of
16 Prohibition is DENIED.

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19 Dated this 16th day of July, 2021

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23 **17A DF5 4402 28C4**
Kathleen E. Delaney
District Court Judge

24
25 July 19, 2021



1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 The State of Nevada vs Alan D
Daniels

CASE NO: 99C156246

7 DEPT. NO. Department 25

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9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District
11 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

12 Service Date: 7/16/2021

13 Department XXV

Dept25LC@clarkcountycourts.us

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