

IN THE SUPREME COURT OF THE STATE OF NEVADA

PETER JASON HELFRICH,
Petitioner,


vs.

THE FIFTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF NYE;
AND THE HONORABLE DAVID R.
GAMBLE, SENIOR JUDGE,
Respondents.

No. 85505

FILED

JUN 08 2023

ENZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

This is an original pro se petition for a writ of mandamus asking this court to compel the district court to rule on petitioner's pending petition for a writ of habeas corpus. Petitioner also supplemented his mandamus petition with a related request that this court direct the Nye County Clerk's Office to file his "Declaration in Support of Affiant's Emergency Motion for a Temporary Restraining Order & Preliminary Injunction," in which he seeks the return of documents he claims are needed to support his habeas petition.

Because it is alleged that petitioner's habeas petition, filed in the district court on September 10, 2021, is still pending, we determined that an answer would assist the court in resolving the matter and directed respondents to file and serve an answer. The Nye County District Attorney's Office submitted an answer on behalf of the Clerk of the Fifth Judicial District Court. The Attorney General's Office submitted an answer

on behalf of the Fifth Judicial District Court and the Honorable David R. Gamble, Senior Judge.

This court has original jurisdiction to issue writs of mandamus, and the issuance of such extraordinary relief is within this court's sole discretion. *See Nev. Const. art. 6, § 4; D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). Petitioner bears the burden to show that extraordinary relief is warranted, and such relief is proper only when there is no plain, speedy, and adequate remedy at law. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004).

In their respective answers, respondents failed to identify and/or provide this court with any order of the district court resolving petitioner's habeas petition. Respondents also failed to contest the fact that petitioner's habeas petition is still pending. Additionally, we perceive no obstacle preventing the district court clerk from filing petitioner's "Declaration." *Sullivan v. Eighth Judicial Dist. Court*, 111 Nev. 1367, 1369-72, 904 P.2d 1039, 1040-42 (1995) (addressing the district court clerk's "absolute obligation" to receive and file documents submitted to them, and collecting cases). Accordingly, we conclude that petitioner has satisfied his burden of showing that our intervention by way of providing extraordinary relief is warranted, and we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the

district court to enter an order resolving petitioner's habeas petition and instructing the Nye County Clerk to file petitioner's "Declaration."¹

Stiglich, C.J.
Stiglich

Cadish, J.
Cadish

Herndon, J.
Herndon

cc: Chief Judge, The Fifth Judicial District Court
Hon. David R. Gamble, Senior Judge
Peter Jason Helfrich
Attorney General/Carson City
Nye County District Attorney
Attorney General/Las Vegas
Nye County Clerk

¹At the time of issuing the writ, the clerk of this court shall serve on the Nye County Clerk a copy of petitioner's Declaration, which begins on page 3 of petitioner's October 26, 2022, petition for writ of mandamus.