

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0069**

Troy K Scheffler,
Appellant,

vs.

Lake Edward Township,
Respondent,

County of Crow Wing,
Respondent.

**Filed August 5, 2024
Affirmed
Harris, Judge**

Crow Wing County District Court
File No. 18-CV-23-1396

Troy Scheffler, Merrifield, Minnesota (pro se appellant)

Robert A. Alsop, Kennedy & Graven, Chartered, Minneapolis, Minnesota (for respondent
Lake Edward Township)

Donald F. Ryan, Crow Wing County Attorney, Stephanie Shook, Assistant County
Attorney, Brainerd, Minnesota (for respondent Crow Wing County)

Considered and decided by Wheelock, Presiding Judge; Harris, Judge; and
Klaphake, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this appeal, appellant challenges the district court's denial of his petition for an alternative writ of mandamus in his dispute with a township over the cost associated with the establishment of a cartway. Because a writ of certiorari was available to review the township's decision and the district court lacked statutory authority to issue a writ of mandamus, we affirm.

FACTS

In July 2021, appellant Troy K Scheffler petitioned respondent Lake Edward Township (the township) for a cartway.¹ The township's board adopted a resolution stating that it would not take any action on Scheffler's petition until he posted \$15,000 as security to cover the estimated costs associated with the cartway.

Over the next few months, Scheffler engaged with the township and its legal counsel about his disagreements with the resolution. In September 2021, the township notified Scheffler that if the security was not paid by October 11, the petition would be considered withdrawn. On October 12, 2021, the township adopted a resolution deeming Scheffler's cartway petition withdrawn.

The township determined it incurred \$1,312.51 for costs associated with Scheffler's cartway petition and billed Scheffler for this amount. In April 2022, the township adopted

¹ See Minn. Stat. § 164.08, subd. 2 (2020).

a resolution authorizing “the collection of a service charge in the amount of \$1,312.51 by certifying the same to the Crow Wing County Auditor for collection on the property taxes [on Scheffler’s property]” under Minnesota Statutes section 366.012 (2022). The charges were levied as an assessment against Scheffler’s property with property taxes.

Scheffler commenced three actions challenging the township’s decision. First, Scheffler appealed to the district court. The district court dismissed the complaint with prejudice for failure to state a claim upon which relief can be granted, and Scheffler appealed the district court’s decision. *See Scheffler v. Lake Edward Twp.*, No. A23-1976, 2024 WL 3490799 (Minn. App. July 22, 2024) (affirming district court’s dismissal of complaint for failing to state a claim upon which relief can be granted because certiorari appeal is exclusive remedy to challenge township’s certification to collect unpaid expenses under section 366.012). Then, Scheffler filed the petition for a writ of mandamus in district court that is at issue here. Lastly, Scheffler filed a petition for a writ of certiorari that we dismissed as untimely. *Resolution Approving Certification of Charges on Prop. Tax Rolls of a Prop.*, No. A23-0758, 2023 WL 4279227 (Minn. App. June 27, 2023) (order), *rev. denied* (Minn. Sept. 27, 2023).

At issue here is Scheffler’s second action, a petition for a writ of mandamus. Scheffler requested the following relief in his petition for a writ of mandamus: (1) issuance of a writ of mandamus directing Crow Wing County to remove the service charge and refund any money paid by Scheffler; (2) costs and disbursements in accordance with law; (3) reasonable attorney fees; and (4) other legal or equitable relief. The township and the county moved the district court to dismiss pursuant to Minnesota Rules of Civil Procedure

12.02(e) and 12.03. Following a motion hearing, the district court denied Scheffler's petition because the required elements for a writ of mandamus were not met. Scheffler appeals.

DECISION

A writ of mandamus is an extraordinary legal remedy, available when the petitioner demonstrates that (1) a failure to perform an official duty clearly imposed by law occurred; (2) the failure caused the petitioner to suffer a public wrong specifically injurious to the petitioner; and (3) there is no other adequate legal remedy. *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 171 (Minn. 2006); *Spann v. Minneapolis City Council*, 979 N.W.2d 66, 78 (Minn. 2022); Minn. Stat. § 586.01 (2022). We will reverse a district court's order on a petition for mandamus relief only when "there is no evidence reasonably tending to sustain the trial court's findings." *Coyle v. City of Delano*, 526 N.W.2d 205, 207 (Minn. App. 1995). Because the district court's decision to deny Scheffler's petition was based solely on a legal determination, we review that decision de novo. *Breza v. City of Minnetrista*, 725 N.W.2d 106, 110 (Minn. 2006). The legal determination presented here is whether a writ of mandamus should issue to compel the township to remove the service charges certified under section 366.012, when certiorari is the exclusive remedy available.

Scheffler challenges the township's collection of service charges certified under section 366.012. Scheffler argues that a writ of mandamus is the appropriate remedy because certiorari is untenable due to misrepresentations made by the township and the county, there was fraud discovered after the 60-day certiorari deadline, and the amount

levied against his property is not a service charge or special assessment. The district court denied Scheffler’s petition because he did not meet the required elements to sustain a writ of mandamus. Specifically, the district court determined Scheffler did not make the required third showing—that there is no other adequate legal remedy available—because Scheffler brought an action in district court and filed a writ of certiorari with the court of appeals, the appropriate manner of proceeding. We agree.

“A party wishing to challenge a municipal decision must choose the right forum.” *Lifespan of Minn., Inc. v. Minneapolis Pub. Sch. Indep. Sch. Dist. No. 1*, 841 N.W.2d 656, 660 (Minn. App. 2014). “[A]bsent a right of review provided by statute or appellate rules, certiorari is the exclusive method to review the proceedings of municipal boards when their proceedings are judicial or quasi-judicial.” *County of Washington v. City of Oak Park Heights*, 818 N.W.2d 533, 539 (Minn. 2012) (quotation omitted). When a township seeks to certify expenses to the county auditor under section 366.012, they are acting in a quasi-judicial capacity. *Great W. Indus. Park, LLC v. Randolph Twp.*, 853 N.W.2d 155, 156 (Minn. App. 2014) (reviewing, by a writ of certiorari, whether section 366.012 authorized township to certify expenses for collection from property taxes).

District courts lack the statutory authority to issue a writ of mandamus when there is a “plain, speedy, and adequate remedy in the ordinary court of law.” Minn. Stat. § 586.02 (2022); *Lund v. Minn. State Colls. & Univs.*, 615 N.W.2d 420, 423 (Minn. App. 2000).

Here, Scheffler's exclusive remedy for challenging the service charges certified under section 366.012 was by writ of certiorari.² Thus, the district court did not have the statutory authority to issue a writ of mandamus. *Walther v. Lundberg*, 654 N.W.2d 694 n.1 (Minn. App. 2002) (stating district court lacks jurisdiction in cases in which court of appeals is proper forum, not district court); *Lund*, 615 N.W.2d at 424 (stating district court lacks jurisdiction to issue writ of mandamus when certiorari is available to review quasi-judicial decision); *Silver Bay Area Citizens v. Lake Superior Sch. Dist. No. 381*, 448 N.W.2d 92, 94 (Minn. App. 1989) (concluding district court did not have jurisdiction to issue writ of mandamus when exclusive remedy for challenging school district's decision was writ of certiorari), *rev. denied* (Minn. Jan. 23, 1990).

Even if the district court could have issued a writ of mandamus, Scheffler is not entitled to this remedy simply because he failed to comply with the procedural requirements to obtain a writ of certiorari. We conclude that in Scheffler's case, a writ of certiorari was no more expensive, time consuming, or complicated than mandamus. *See Kramer v. Otter Tail County Bd. Of Comm'rs*, 647 N.W.2d 23, 26-27 (Minn. App. 2002) (stating that mandamus was available when alternative remedy was a writ of certiorari, but it was necessary for complete record to be provided, and certiorari was more expensive, time consuming, and complicated than mandamus).

² Scheffler asserts that the presence of fraud renders certiorari an inadequate remedy. Scheffler did not raise this issue with the district court, so his argument is forfeited on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) ("A reviewing court must generally consider only those issues that the record shows were presented [to] and considered by the [district] court in deciding the matter before it." (quotation omitted)).

Here, Scheffler filed a certiorari appeal approximately one month after filing this matter. Many of Scheffler's arguments for mandamus were also raised in Scheffler's certiorari appeal, suggesting certiorari is the appropriate remedy and no more expensive, time consuming, or complicated than mandamus.

Scheffler also had the opportunity to provide a complete record during his certiorari appeal. The parties provided written memoranda regarding notice, and we concluded that the township provided un rebutted evidence that notice was provided on September 2, 2022.

Therefore, even though the certiorari appeal was dismissed as untimely before the district court denied Scheffler's petition for mandamus, we conclude Scheffler had another available remedy, other than mandamus, and that he exercised this remedy by bringing a writ of certiorari. The district court did not err in denying Scheffler's petition because certiorari was available to review the township's decision and the district court lacked statutory authority to issue a writ of mandamus.

Affirmed.