

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIRA CERVANTES,
Petitioner,

vs.

THE NINTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
DOUGLAS, AND THE HONORABLE
DAVID R. GAMBLE, DISTRICT JUDGE,
Respondents,

and

THE STATE OF NEVADA, DIVISION
OF CHILD AND FAMILY SERVICES,
DEPARTMENT OF HUMAN
RESOURCES,
Real Parties in Interest.

No. 43046

FILED

JUN 28 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Rinal*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order that denied petitioner's request for the immediate return of petitioner's minor child into her custody and required petitioner to enter into a service agreement with real party in interest the Division of Child and Family Services.

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,¹ or to control an arbitrary or capricious exercise of discretion.²

¹NRS 34.160.

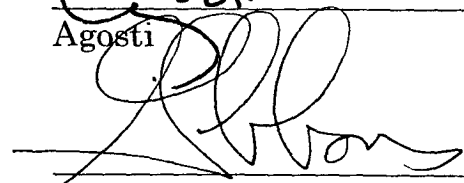
²Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

The issuance of a writ "is purely discretionary" with this court.³ We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted. Accordingly, we deny the petition.⁴

It is so ORDERED.⁵


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. David R. Gamble, District Judge
Roeser & Roeser
Douglas County District Attorney/Minden
Douglas County Clerk

³Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

⁴See NRAP 21(b).

⁵On March 29, 2004, petitioner filed in this court a motion to waive the filing fee. We conclude that petitioner has demonstrated good cause to waive the filing fee in this matter. See NRAP 21(e).