

IN THE SUPREME COURT OF THE STATE OF NEVADA

MABLE HUDSON, N/K/A MABLE  
BROWN,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
ROBERT W. LUECK, DISTRICT  
JUDGE, FAMILY COURT DIVISION,  
Respondents,  
and  
MILTON JONES,  
Real Party in Interest.

No. 43533

**FILED**

JUL 27 2004

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

ORDER DENYING PETITION  
FOR WRIT OF MANDAMUS OR PROHIBITION

This is an original petition for a writ of mandamus or prohibition challenging a district court order that granted real party in interest's motion to change the child custody arrangement.

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,<sup>1</sup> or to control an arbitrary or capricious exercise of discretion.<sup>2</sup> On the other hand, a writ of prohibition is the proper remedy to restrain a district court from exercising a judicial function without or in excess of its jurisdiction.<sup>3</sup> In either case, the writs may be issued only when "there is

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<sup>1</sup>NRS 34.160.

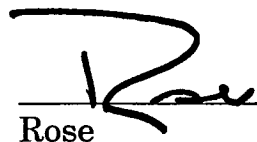
<sup>2</sup>Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).


<sup>3</sup>NRS 34.320; see also Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

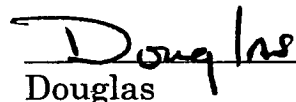
not a plain, speedy and adequate remedy in the ordinary course of law."<sup>4</sup>  
The issuance of either writ "is purely discretionary" with this court.<sup>5</sup>

We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time. In particular, it appears that petitioner has an adequate legal remedy in the form of an appeal.<sup>6</sup> Accordingly, we deny the petition.<sup>7</sup>

It is so ORDERED.<sup>8</sup>

 \_\_\_\_\_, J.  
Rose

 \_\_\_\_\_, J.  
Maupin

 \_\_\_\_\_, J.  
Douglas

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<sup>4</sup>NRS 34.170; NRS 34.330; see also Pan v. District Ct., 120 Nev. \_\_\_, 88 P.3d 840 (2004) (recognizing that an appeal is an adequate legal remedy).

<sup>5</sup>Smith, 107 Nev. at 677, 818 P.2d at 851.

<sup>6</sup>NRAP 3A(b)(2)

<sup>7</sup>See NRAP 21(b).

<sup>8</sup>In light of this order, we deny as moot petitioner's request for a stay.

cc: Hon. Robert W. Lueck, District Judge, Family Court Division  
Bruce I. Shapiro, Ltd.  
Santoro, Driggs, Walch, Kearney, Johnson & Thompson  
Phung H. Jefferson  
Clark County Clerk