

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES FUQUA,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
STEVEN E. JONES, DISTRICT JUDGE,
FAMILY COURT DIVISION,

Respondents,

and

SHAWN WILLIAMS,
Real Party in Interest.

No. 48663

FILED

JAN 11 2007

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 oral ruling that granted a motion to set aside an annulment decree.

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; see also Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

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

The counterpart to a writ of mandamus, a writ of prohibition is available when a district court acts without or in excess of its jurisdiction.³ Neither writ will issue, however, when the petitioner has a plain, speedy and adequate remedy in the ordinary course of law.⁴

We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted. In particular, it does not appear that the district court has entered a written order. We have recognized that "dispositional court orders that are not administrative in nature, but deal with the procedural posture or merits of the underlying controversy, must be written, signed, and filed before they become effective."⁵ In this case, petitioner has not supplied this court with any written order on which relief could be based.⁶ Moreover, once the district court enters a written order granting the motion to set aside the

³State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 146-47, 42 P.3d 233, 237 (2002); NRS 34.320.


⁴Pan v. Dist. Ct., 120 Nev. 222, 88 P. 3d 840 (2004) (recognizing that an appeal is an adequate legal remedy); NRS 34.170; NRS 34.330.

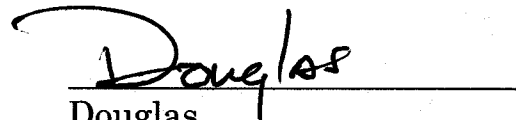
⁵State, Div. Child & Fam. Servs. v. Dist. Ct., 120 Nev. 445, 454, 92 P.3d 1239, 1245 (2004).

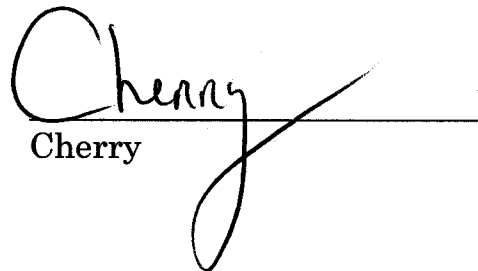
⁶See Pan, 120 Nev. 222, 88 P.3d 840 (observing that a petitioner has the burden of supplying documentation and demonstrating that extraordinary relief is warranted).

annulment, it appears that petitioner will have an adequate legal remedy in the form of an appeal.⁷ Accordingly, we deny the petition.⁸

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Steven E. Jones, District Judge, Family Court Division
Webster & Associates
Kajioka & Associates
Clark County Clerk

⁷See NRAP 3A(a) and (b)(1); see also Holiday Inn v. Barnett, 103 Nev. 60, 732 P.2d 1376 (1987).

⁸See NRAP 21(b). We deny as moot petitioner's request for a stay filed on November 29, 2006.