

IN THE SUPREME COURT OF THE STATE OF NEVADA

DOUGLAS EUGENE SAVOY, JR.;
RICHARD W. YOUNG; AND
KATHLEEN T. PRICE,
Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
DAVID A. HARDY, DISTRICT JUDGE,
FAMILY COURT DIVISION,
Respondents,
and
SIMONA KAY SAVOY,
Real Party in Interest.

No. 48933

FILED

FEB 26 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, in the alternative, a writ of prohibition, challenging a district court order concerning contempt and attorney fees and costs.

The underlying matter arises from a divorce proceeding. In July 2006, real party in interest Simona Kay Savoy filed a complaint for divorce from petitioner Douglas Eugene Savoy, Jr. Douglas is a minister

with the International Community Church (ICC). When Douglas became a minister in 1990, he took a vow of poverty.¹

Douglas hired two attorneys to represent him in the divorce proceedings, petitioners Richard W. Young and Kathleen T. Price, at a rate of \$450 and \$350 per hour, respectively. Douglas signed the fee agreement with his attorneys in his individual capacity.

At a case management conference, Douglas voluntarily offered to pay Simona's preliminary attorney fees in the amount of \$15,000, and to pay temporary child support for their three minor children in the amount of \$1,500 per month and spousal support in the amount of \$3,000 per month. The district court entered an order directing Douglas to pay this amount of support.

Douglas paid the attorney fees and support for one month. In the interim, Simona received a letter from the ICC explaining that the church declined to authorize funds for the temporary spousal support payments. The church, however, did allow for the continued child support payments. Thereafter, Douglas refused to pay the interim spousal support. Subsequently, the district court entered two orders admonishing Douglas for failing to comply with the support order.

Simona then filed a motion for an order to show cause why Douglas should not be held in contempt for failing to pay the spousal

¹It appears from the documents before this court that, in her complaint for divorce, Simona has alleged that Douglas is worth millions of dollars.

support obligation as required under the earlier order. That same day, Douglas filed a motion to modify the temporary spousal support obligation. Douglas contended that he could not comply with the district court's order concerning spousal support, as the church had decided that the spousal support obligation was not within his "statement of privilege" agreement with the church.²

A hearing was conducted on Simona's contempt motion. Following the hearing, the district court entered an order holding Douglas in contempt and sentencing him to twenty-five days in jail. The court noted that if Douglas paid the support, he would be released. The order further directed that Douglas temporarily cease paying any attorney fees to his attorneys, and that Young and Price "disclose" and "disgorge" any funds received since the support order was entered. This writ petition followed.

In the petition, Douglas contends that the district court erred in holding him in contempt because he is unable to comply with the support order in light of his financial status. In addition, attorneys Young and Price contend that their due process rights were violated when the district court instructed Douglas to stop paying his attorney fees and costs, without providing them with proper notice and an opportunity to be heard.

²According to Douglas, the "statement of privilege" agreement with the church authorizes his receipt of a weekly \$100 monetary allotment, parsonage within the Reno rectory, clothing, transportation, health care coverage, and a two week annual vacation.

Both mandamus and prohibition are extraordinary remedies, and it is within this court's discretion to determine if a petition will be considered.³ Writ relief generally is not available unless the district court manifestly abused its discretion or exercised its discretion arbitrarily or capriciously.⁴ It is the petitioners' burden, moreover, to demonstrate that this court's extraordinary intervention is warranted.⁵

Original writ petitions are properly used to challenge contempt orders.⁶ Civil contempt is remedial in nature and is intended to compel the contemnor's compliance.⁷ "Whether a person is guilty of contempt is generally within the particular knowledge of the district court, and the district court's order should not lightly be overturned."⁸ When a party has the ability to pay court-ordered support, but willfully refuses to

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

⁴See State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 147, 42 P.3d 233, 237-38 (2002).

⁵Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

⁶Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 5 P.3d 569 (2000).

⁷Rodriguez v. Dist. Ct., 120 Nev. 798, 805, 102 P.3d 41, 46 (2004).

⁸Pengilly, 116 Nev. at 650, 5 P.3d at 571.

do so, he or she may be held in contempt.⁹ Finally, the district court has broad discretion to control the conduct of proceedings pending before it.¹⁰

Here, the district court found that Douglas voluntarily offered to pay Simona's preliminary attorney fees and interim spousal support. The court found that Douglas has "accessed" \$20,000 of ICC money to pay his own attorney fees and \$15,000 to pay Simona's preliminary fees. The court concluded that these payments demonstrate Douglas's "access or control of substantial funds." The court noted that Douglas signed his fee agreement with his attorneys in his individual capacity without any reference to ICC as a third-party payor or guarantee. In addition, the court stated that Douglas's ability to continue to pay his temporary child support obligation, but not the spousal support, shows that his actions in refusing to pay support are willful. The court also recognized that while Douglas has a "right to access the court and employ counsel of his choice," Simona has the same rights, but her rights are compromised by Douglas's contempt because she "has no other funds with which to further her action or subsist upon in the interim." Finally, the court noted that with regard to the restraining order concerning attorney fees and costs, it intended to lift the order after Douglas's release from jail and the parties appear for a trial management conference.

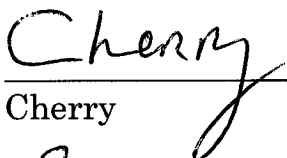
⁹Lamb v. Lamb, 83 Nev. 425, 428, 433 P. 2d 265, 267 (1967).


¹⁰State, Div. Child & Fam. Servs v. Dist. Ct., 120 Nev. 445, 453, 92 P.3d 1239, 1244 (2004).

We have reviewed the petition and accompanying documents, and we conclude that our intervention by way of extraordinary relief is not warranted. The district court's contempt order was based on its particular knowledge and was entered to control the conduct of the proceedings before it. With regard to any due process argument, the attorneys have not demonstrated that, at this point in the proceedings, they were deprived of any fees and/or cost, or that they returned any fees.¹¹ Accordingly, we deny this petition.

It is so ORDERED.¹²


_____, J.
Douglas


_____, J.
Cherry


_____, J.
Saitta

¹¹See Wiese v. Granata, 110 Nev. 1410, 1412, 887 P.2d 744, 745 (1994) (stating that “due process requires that notice be given before a party’s substantial rights are affected”).

¹²See NRAP 21(b).

cc: Hon. David A. Hardy, District Judge
Law Offices of Richard W. Young
Kathleen T. Price
Karp & Co., Ltd.
Bonnie G. Mahan
Washoe District Court Clerk