

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN O'CONNOR,
Petitioner,

vs.

THE THIRD JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CHURCHILL, AND THE HONORABLE
ROBERT E. ESTES, DISTRICT JUDGE,
Respondents,

and

THE STATE OF NEVADA
DEPARTMENT OF HUMAN
RESOURCES, WELFARE DIVISION;
AND CHRISTY LYNN O'CONNOR,
N/K/A CHRISTY LYNN BIGGS,
Real Parties in Interest.

No. 49225

FILED

APR 09 2007

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

ORDER DENYING PETITION
FOR WRIT OF PROHIBITION OR MANDAMUS

This original proper person petition for a writ of prohibition or mandamus seeks an order from this court directing the district court to vacate all orders entered in the underlying district court proceedings and for the district court to refrain from any further proceedings.

A writ of prohibition is available to arrest extra-jurisdictional judicial proceedings.¹ A writ of mandamus is available to compel the performance of an act that the law requires, or to control an arbitrary or

¹See NRS 34.320.

capricious exercise of discretion.² Both prohibition and mandamus are extraordinary remedies, and it is within this court's discretion to determine if a petition will be considered.³

Petitioner contends that he must attend an April 10, 2007, contempt hearing that is based on a void child support order, for which the district court lacked subject matter jurisdiction to enter.⁴ This court has noted that "subject matter jurisdiction can be raised by the parties at any time, or sua sponte by a court of review, and cannot be conferred by the parties."⁵

Under NRS 425.350(1), a parent has a duty to support his or her child. Once a welfare recipient accepts support, the recipient assigns his or her rights to the support, for collection, to the welfare division.⁶ Once a child support order is entered, the district court has the authority

²See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

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

⁴Petitioner contends that the child support order was based on the former Uniform Reciprocal Enforcement of Support Act (URESA). The documents before this court, however, show that the welfare division, when seeking to establish paternity and child support, completed a form, in compliance with NRS Chapter 425, that simply contains a reference to the former URESA.

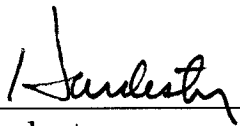
⁵Swan v. Swan, 106 Nev. 464, 469, 796 P.2d 221, 224 (1990).

⁶NRS 425.350(3) and (5).

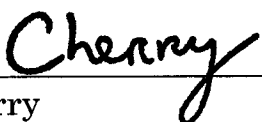
to enforce it.⁷ Accordingly, the district court had subject matter jurisdiction in this matter.

We have considered the petition and attached documents, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted.⁸ Accordingly, we

ORDER the petition DENIED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Robert E. Estes, District Judge
John O'Connor
Attorney General Catherine Cortez Masto/Carson City
Churchill County District Attorney
Churchill County Clerk

⁷See NRS 125.240; see also NRS 125B.140 (providing that the district court has the authority to enforce orders for support); Khaldy v. Khaldy, 111 Nev. 374, 377, 892 P.2d 584, 586 (1995) (providing that once payments for child support have accrued they become vested rights and cannot be modified or voided).

⁸See NRAP 21(b).