

IN THE SUPREME COURT OF THE STATE OF NEVADA

COTE H., A MINOR,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF  
NEVADA, IN AND FOR THE  
COUNTY OF CLARK, AND THE  
HONORABLE WILLIAM O. VOY,  
DISTRICT JUDGE, FAMILY COURT  
DIVISION,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 49677

**FILED**

JUL 17 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR  
WRIT OF PROHIBITION OR MANDAMUS

This original petition for a writ of prohibition or mandamus challenges a district court's modification, during this court's stay of the underlying proceedings, of petitioner's placement with his father.

Both prohibition and mandamus are extraordinary remedies, and it is within this court's discretion to determine if a petition will be

considered.<sup>1</sup> Writ relief generally is not available unless the district court manifestly abused its discretion or exercised its discretion arbitrarily or capriciously,<sup>2</sup> or when the court has acted without or in excess of its jurisdiction.<sup>3</sup> Further, to demonstrate that our extraordinary intervention is warranted is petitioner's burden.<sup>4</sup>

Having reviewed this petition and its supporting documentation,<sup>5</sup> we are not persuaded that our intervention by way of extraordinary relief is warranted.<sup>6</sup> Accordingly, we

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<sup>1</sup>See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

<sup>2</sup>See State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 147, 42 P.3d 233, 237-38 (2002).

<sup>3</sup>Id. at 146-47, 42 P.3d at 237.

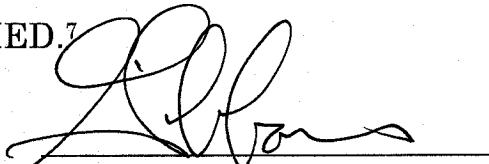
<sup>4</sup>Pan v. Dist. Ct., 120 Nev. 222, 228-29, 88 P.3d 840, 844 (2004).

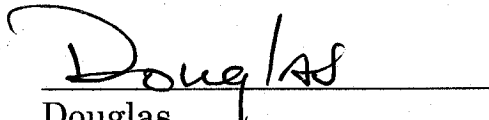
<sup>5</sup>On June 29, 2007, petitioner filed a motion to supplement his supporting documentation. We grant the motion and direct the clerk of this court to detach and file the supplemental documents provisionally submitted with petitioner's June 29 motion.

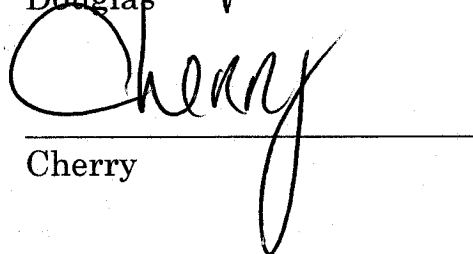
<sup>6</sup>Cf. Bongiovi v. Bongiovi, 94 Nev. 321, 579 P.2d 1246 (1978) (providing that a pending appeal does not divest the district court of its jurisdiction to determine matters independent from and collateral to the decision challenged on appeal); see generally NRS 62C.030(2)(a) (authorizing pretrial detention of a child alleged to be a delinquent and "likely to commit an offense dangerous to himself or to the community");

*continued on next page . . .*

ORDER the petition DENIED.<sup>7</sup>

  
\_\_\_\_\_, J.  
Gibbons

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

  
\_\_\_\_\_, J.  
Cherry

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*... continued*

Baker v. Smith, 477 S.W.2d 149, 151 (Ky. 1971) (recognizing that “[i]n the case of a child who is before the juvenile court the public interest is protective and not punitive, and confinement pending disposition is for the child’s welfare rather than to insure his appearance upon trial proceedings”); People ex rel. Wayburn v. Schupf, 350 N.E.2d 906, 908 (N.Y. 1976) (noting the purpose of a statute analogous to NRS 62C.030(2)(a), to “protect the community prospectively from the perpetration of serious crimes and to protect and shelter children who in consequence of grave antisocial behavior are demonstrably in need of special treatment”).

<sup>7</sup>See NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851.

In light of this order, we deny as moot petitioner’s motion for a stay. The stay imposed in Docket No. 48455 remains in effect pending our consideration of the petition filed in that case.

cc: Hon. William O. Voy, District Judge, Family Court Division  
Clark County Public Defender Philip J. Kohn  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk