

IN THE SUPREME COURT OF THE STATE OF NEVADA

DRUSCILLA CUMMINGS, N/K/A
DRUSCILLA THYSSEN,
Petitioner,

vs.

THE FAMILY DIVISION OF THE SECOND
JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA, IN AND FOR THE
COUNTY OF WASHOE, AND, THE
HONORABLE DEBORAH SCHUMACHER,
DISTRICT JUDGE,

Respondents,

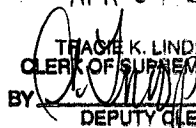
and

KENNETH CUMMINGS,
Real Party in Interest.

No. 50198

FILED

APR 07 2008

THOMAS K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

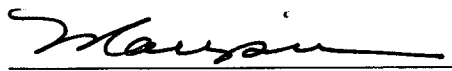
ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

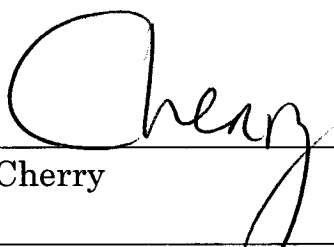
This original petition for a writ of mandamus or prohibition challenges a district court order denying petitioner's motion for reconsideration of an order granting real party in interest's motion to establish that the minor child attend Galena High School and denying petitioner's alternative motion for a new trial. According to petitioner, newly discovered facts or evidence supported her request for reconsideration or a new trial. Petitioner asks this court to issue an extraordinary writ (1) compelling the district court to interview the child for a second time and then apply the best interest of the child standard in determining the child's high school placement, and (2) directing the district court to vacate its finding that petitioner's child pornography allegation completely lacked merit and to instead conduct a full evidentiary hearing on the matter.


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 a manifest abuse of discretion.² By contrast, a writ of prohibition may issue to confine the district court to the proper exercise of its prescribed jurisdiction when the court has acted in excess of its jurisdiction.³ Both mandamus and prohibition are extraordinary remedies, and it is within this court's discretion to determine if such petitions will be considered.⁴ Petitioner, moreover, bears the burden of demonstrating that extraordinary relief is warranted.⁵

Upon consideration of the petition and supporting documents, we are not satisfied that our intervention by way of extraordinary relief is warranted. Accordingly, we

ORDER the petition DENIED.⁶


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

¹See NRS 34.160.

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

³See NRS 34.320.

⁴Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

⁵Pan, 120 Nev. at 228, 88 P.3d at 844.

⁶See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

cc: Hon. Deborah Schumacher, District Judge, Family Court Division
Martin G. Crowley
Victoria S. Mendoza
Washoe District Court Clerk