

IN THE SUPREME COURT OF THE STATE OF NEVADA

VICTORIANA FLORES,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
SANDRA L. POMRENZE, DISTRICT
JUDGE, FAMILY COURT DIVISION,

Respondents,

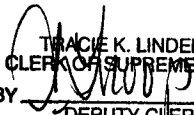
and

FREDERICK FLORES,
Real Party in Interest.

No. 50943

FILED

JAN 28 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS AND PROHIBITION

This proper person petition for extraordinary relief purports to challenge a district court order modifying child custody based on changed circumstances.¹

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,² or to control a manifest abuse or arbitrary or capricious exercise

¹Petitioner alternatively seeks a writ of error coram nobis based on what she describes as fraud upon the district court. If petitioner wishes to set aside the district court's judgment based on fraud upon the court, the proper procedure for doing so is set forth under NRCP 60(b).

²NRS 34.160.

of discretion.³ On the other hand, a writ of prohibition is the proper remedy to restrain a district court from exercising a judicial function without or in excess of its jurisdiction.⁴ In either case, the writs may issue only when “there is not a plain, speedy and adequate remedy in the ordinary course of law.”⁵ The opportunity to appeal generally is considered an adequate legal remedy, precluding writ relief.⁶

We have considered this petition, and we are not satisfied that our intervention by way of extraordinary relief is warranted. In particular, an order modifying child custody is appealable under NRAP 3A(b)(2). Thus, if petitioner is aggrieved by the district court’s custody determination, it appears that she can appeal by timely filing a notice of appeal from that order within thirty days from the date when written notice of the order’s entry was served, as set forth under NRAP 4(a).⁷ Here, although petitioner has not provided this court with a copy of the order that she seeks to challenge,⁸ it appears, based on her description,

³Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

⁴NRS 34.320; see also Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

⁵NRS 34.170; NRS 34.330.

⁶See Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

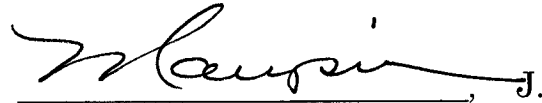
⁷See also NRAP 26(b) (allowing a party an additional three days if notice of the challenged order’s entry was served by mail).

⁸See NRAP 21(a) (providing that it is petitioner’s burden to provide this court with copies of any order or parts of the record which may be essential to our understanding of the matters set forth in the petition);

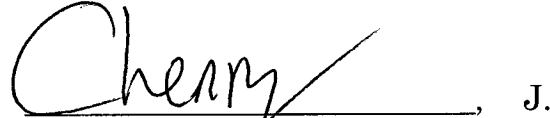
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that the order that she seeks to challenge finally alters the parties' child custody arrangement. Accordingly, since the right to appeal provides an adequate remedy here, we deny the petition.⁹


It is so ORDERED.¹⁰

 J.

Maupin

 J.

Cherry

 J.

Saitta

cc: Hon. Sandra Pomrenze, District Judge, Family Court Division
Victoriana Flores
Michael J. Warhola, LLC
Eighth District Court Clerk

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Pan, 120 Nev. at 228-29, 88 P.3d at 844 (explaining that, when essential information or documentation is not provided to this court as required under NRA 21(a), we have no way of properly evaluating a petition).

⁹See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

¹⁰Petitioner's January 24, 2008 motion for leave to proceed in this court in forma pauperis is granted, and we therefore waive the filing fee in this matter. See NRAP 21(e).