

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM RICHARDSON,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ELISSA F. CADISH, DISTRICT JUDGE,
Respondents,

an

STEPHEN HECHT AND DIANE
HECHT, INDIVIDUALLY AND AS
PARENTS OF PAULA HECHT,
Real Parties in Interest.

No. 51491

FILED

APR 28 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK()

ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges two alleged district court rulings. The first challenged ruling denied petitioner's NRCP 60(b) motion for relief from the denial of his request to continue trial and allow the production of medical bills and records after discovery had closed. The second challenged ruling denied a motion in limine seeking to prohibit real parties in interest from mentioning, during voir dire, that Paula Hecht, the defendant decedent, was killed in the accident that spawned the underlying case.

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, or to control a manifest abuse of discretion.¹ We may issue a writ

¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

of prohibition to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court's jurisdiction.² Both mandamus and prohibition are extraordinary remedies, and whether a petition for extraordinary relief will be considered is solely within our discretion.³

We will generally not entertain a petition for extraordinary writ relief challenging a discovery order.⁴ There are, however, two exceptions to this rule.⁵ We may elect to consider a petition that challenges a district court order that either (1) is a blanket discovery order without regard to relevance, or (2) compels the disclosure of privileged information.⁶ It appears that neither of these exceptions apply in this case. Accordingly, our intervention by way of extraordinary relief is not warranted with regard to petitioner's challenge to the alleged denial of his motion for relief from an oral ruling denying his request to continue trial and to allow him to produce medical bills and records after discovery had closed.⁷

²See NRS 34.320.

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

⁴Clark County Liquor v. Clark, 102 Nev. 654, 730 P.2d 443 (1986).

⁵Id.

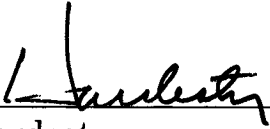
⁶Id.

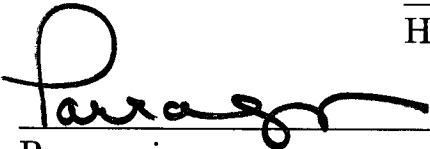
⁷We note that an order denying NRCP 60(b) relief is independently appealable, and we have repeatedly held that an appeal is an adequate and speedy remedy precluding writ relief. Holiday Inn v. Barnett, 103 Nev. 60, 732 P.2d 1376 (1987); Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). Thus, the fact that petitioner could have appealed the denial of his 60(b) motion constitutes an independent basis for denying

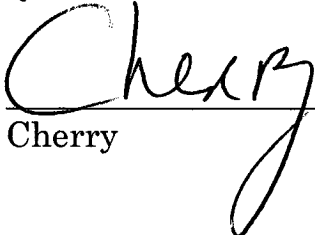
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Additionally, having reviewed appellant's challenge to the alleged denial of his motion in limine, we decline to exercise our discretion and consider appellant's petition with regard to this issue.⁸ Accordingly, as we conclude that our intervention by way of extraordinary relief is not warranted,⁹ we

ORDER the petition DENIED.¹⁰


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

... continued

this petition. NRCP 60(b), however, applies only to final judgments, as its terms only allow parties to seek relief from a final judgment, order or proceeding. NRCP 60(b); Barry v. Lindner, 119 Nev. 661, 81 P.3d 537 (2003). As no final judgment has been entered, petitioner's request for 60(b) relief was improper, and thus, even if an appeal was filed, we would necessarily affirm the district court's decision.

⁸See Smith, 107 Nev. 674, 818 P.2d 849.

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

¹⁰We note that petitioner has not provided this court with either a written order resolving his 60(b) motion and motion in limine or a copy of the district court's minutes addressing either of these motions. See NRAP 21(a) (providing that a petition shall contain . . . "copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition."); Pan, 120 Nev. at 228-29, 88 P.3d at 844 (observing that a petitioner has the burden of supplying documentation and demonstrating that extraordinary relief is warranted). Additionally, we note that our decision not to consider this petition does not prohibit petitioner, if aggrieved, from raising these issues in an appeal from the final judgment in the underlying case.

cc: Hon. Elissa F. Cadish, District Judge
Patti, Sgro & Lewis
Emerson & Manke, LLP
Eighth District Court Clerk