

IN THE SUPREME COURT OF THE STATE OF NEVADA

SYLVIA BALSAS TOUNIS,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK,

AND THE HONORABLE BILL  
HENDERSON, DISTRICT JUDGE,  
FAMILY COURT DIVISION,

Respondents,

and

ALEXANDER BALSAS TOUNIS,

Real Party in Interest.

No. 55361

FILED

APR 09 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *A. Anderson*  
DEPUTY CLERK

ORDER GRANTING, IN PART, PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus or prohibition challenges a district court oral ruling, reflected in the court minutes, dismissing petitioner's civil action and seeks to compel the district court to enter an appealable, written order.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse of discretion. See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). A writ of prohibition arrests the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. NRS 34.320. A writ of mandamus or prohibition "shall be issued in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law." NRS 34.170. Because the district court dismissed petitioner's civil action without entering a written order pursuant to NRCP 58(a), petitioner does not have an adequate remedy at law in the form of an appeal. Rust v. Clark Cty.

School District, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987) (“An oral pronouncement of judgment is not valid for any purpose, NRCP 58(c); therefore, only a written judgment has any effect, and only a written judgment may be appealed.”). Accordingly, we grant the petition in part, and direct the clerk of this court to issue a writ of mandamus compelling the district court to enter a formal, written judgment in Case No. D418418.

To the extent that petitioner seeks to challenge the dismissal of her civil action, we deny that request because, once the district court enters a final, written order, petitioner will have an adequate legal remedy in the form of an appeal challenging the dismissal. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (recognizing that “the right to appeal is generally an adequate legal remedy that precludes writ relief”).<sup>1</sup>

It is so ORDERED.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

<sup>1</sup>Based on our review of the documents before us, it does not appear that a reply is necessary. Accordingly, we deny petitioner’s motion for permission to file a reply and direct the clerk to return, unfiled, the proposed reply received on March 29, 2010.

cc: Hon. William G. Henderson, District Judge, Family Court Division  
Robert W. Lueck, Esq.  
Flangas McMillan Law Group, Inc.  
Eighth District Court Clerk