

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW EDELBLUTE,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
CYNTHIA N. GIULIANI, DISTRICT
JUDGE,

Respondents,

and

KELLY MCCOLLUM,
Real Party in Interest.

No. 58486

FILED

JUL 18 2011

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


ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging the district court's oral decision to deny a motion to set an evidentiary hearing on petitioner's motion to modify custody.


A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Writ relief is only available when there is no a plain, speedy, or adequate remedy in the ordinary course of law. NRS 34.170. It is within this court's discretion whether to consider a writ petition. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the writ petition and its supporting documents, we conclude that petitioner has failed to demonstrate that our extraordinary intervention is warranted. See Pan, 120 Nev. at 228-29, 88 P.3d at 844. We therefore decline to exercise our discretion to consider the petition and, we order the petition denied. NRAP 21(b)(1); Smith, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.


_____, C.J.
Douglas


_____, J.
Saitta


_____, J.
Hardesty

cc: Hon. Cynthia N. Giuliani, District Judge
Robert W. Lueck, Esq.
Rhonda K. Forsberg
Eighth District Court Clerk