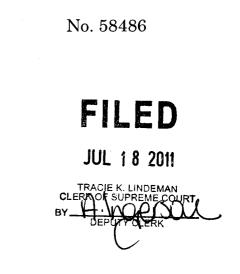
IN THE SUPREME COURT OF THE STATE OF NEVADA

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.



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. <u>See</u> NRS 34.160; <u>International Game Tech. v. Dist.</u> <u>Ct.</u>, 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. <u>Smith v. District Court</u>, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. <u>Pan v. Dist. Ct.</u>, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

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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.

vis/al C.J. Douglas

J.

J.

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