

IN THE SUPREME COURT OF THE STATE OF NEVADA

KAREL P. DE ROO A/K/A GARY DE ROO,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF WASHOE;
AND THE HONORABLE BRIDGET ROBB
PECK, DISTRICT JUDGE,

Respondents,

and

MICHELLE F. DE ROO,
Real Party in Interest.

No. 59014

FILED

OCT 19 2011

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 district court orders regarding child custody. Real party in interest has filed an answer as directed.

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 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). This court may issue a writ 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. See NRS 34.320; Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). It is within our discretion to determine if a writ petition will be considered. Smith, 107 Nev. at 677, 818 P.2d at 851. 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 parties’ arguments and the appendix, we are not persuaded that extraordinary relief is warranted. Smith, 107

Nev. at 677, 818 P.2d at 851. In particular, petitioner has not met his burden of showing that the district court manifestly abused its discretion or acted in excess of its jurisdiction when it presided over this case pursuant to an administrative transfer or when it issued orders directing petitioner to produce the child pursuant to NRS 125.470 and granting temporary sole custody to real party in interest. See NRS 34.160; International Game Tech., 124 Nev. at 197, 179 P.3d at 558; Smith, 107 Nev. at 677, 818 P.2d at 851; Pan, 120 Nev. at 228, 88 P.3d at 844. Additionally, as to the temporary custody order, writ relief is unavailable when the petitioner has a plain, speedy, and adequate remedy at law, such as an appeal challenging the district court's order regarding the parties' custody issues. NRS 34.170; NRS 34.330; Pan, 120 Nev. 222, 88 P.3d 840. Once the district court enters a final order resolving these issues, any aggrieved party may appeal and seek to have the appeal expedited as appropriate. See NRAP 3A(b)(7) (authorizing an appeal from an order finally establishing or altering custody of a minor child); NRAP 3E (governing fast tracking of child custody appeals).¹

Accordingly, we

ORDER the petition DENIED.

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

¹In light of this order, we deny as moot petitioner's October 11, 2011, motion for a stay.

cc: Hon. Bridget Robb Peck, Family Court Judge
Richard F. Cornell
Silverman, Decaria & Kattelman, Chtd.
Washoe District Court Clerk