

IN THE SUPREME COURT OF THE STATE OF NEVADA

ELIZABETH HENDERSON F/K/A
ELIZABETH THOMPSON,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
VINCENT OCHOA, DISTRICT JUDGE,
Respondents,
and
ERIC HENDERSON,
Real Party in Interest.

No. 60552

FILED

MAR 30 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS


This original petition for a writ of mandamus seeks to stay a district court oral ruling requiring petitioner to return the parties' minor child to Nevada by April 1, 2012.

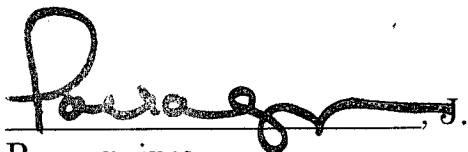
A writ of mandamus may be issued "to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station," or to remedy arbitrary and capricious acts of discretion. International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008); NRS 34.160. Writ relief will not issue when the petitioner has a plain, speedy, and adequate legal remedy. NRS 34.170. It is within our discretion to determine if a writ petition will be considered. 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 petitioner's arguments and appendix, we are not persuaded that she has demonstrated that our extraordinary intervention is warranted. In particular, petitioner has not provided us with a signed, written order that has been filed in the district court and it is not clear that such an order has been entered. Moreover, in her petition, petitioner seeks to stay the district court's oral decision, yet it does not appear that she has sought a stay in the district court; nor has petitioner demonstrated, or even alleged, that seeking a stay in the district court first is impracticable. NRAP 8(a)(2)(A). As a result, it appears that petitioner has a speedy and adequate remedy—seeking a stay in the district court—that precludes writ relief. NRS 34.170. Accordingly, we deny the petition for writ of mandamus. NRAP 21(b); Smith, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.¹


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Vincent Ochoa, District Judge
Mann Law Firm
Dawn M Lozano
Eighth District Court Clerk

¹In light of this order, we deny as moot petitioner's emergency motion for a stay of the district court's oral ruling.