

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSH WOODHAMS,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JENNIFER ELLIOTT, DISTRICT
JUDGE,
Respondents,
and
TACY WOODHAMS,
Real Party in Interest.

No. 61095

FILED

SEP 13 2012

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

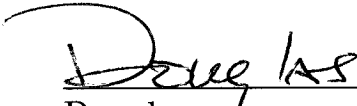
ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION


This is an original petition for a writ of mandamus or prohibition challenging a district court order regarding child custody.

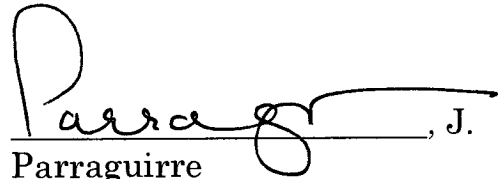
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (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, 677, 818 P.2d 849, 851 (1991). It is within our discretion to determine if writ relief will be granted. 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 petition and the appendix, we are not persuaded that extraordinary relief is warranted. Smith, 107 Nev. at 677, 818 P.2d at 851. In particular, the order that petitioner challenges notes that further proceedings will be held to determine visitation rights and child support following court-ordered mediation. Thus, the challenged order is temporary, and 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.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

¹We make no comment regarding petitioner's challenge to the transfer of the underlying case from one district court judge to another district court judge.

cc: Hon. Jennifer Elliott, District Judge, Family Court Division
Michael A. Root
Stovall & Associates
Eighth District Court Clerk