

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHRYN STEERE,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MATHEW HARTER, DISTRICT JUDGE,
Respondents,
and
MARK ROSICH,
Real Party in Interest.

No. 61745

FILED

SEP 21 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Williams*
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's oral decision directing petitioner to return the children to the State of Nevada, referring the parties to mediation, and establishing a temporary visitation schedule.

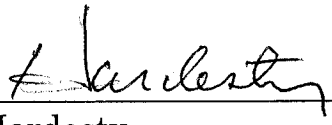
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition is available when a district court acts without or in excess of its jurisdiction. NRS 34.320; State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 146-47, 42 P.3d 233, 237 (2002). It is petitioner's burden to demonstrate that our extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). We will only issue an extraordinary writ, however, in the absence of a plain, speedy, and adequate remedy in the ordinary course of

law. NRS 34.020; NRS 34.170; NRS 34.330; Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). The opportunity to appeal is considered an adequate legal remedy precluding writ relief, even when an appeal is not immediately available due to the interlocutory nature of the challenged order. Pan, 120 Nev. at 224-25, 88 P.3d at 841.

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. NRAP 21(b)(1). In particular, once the district court enters an order finally establishing child custody, any aggrieved party may appeal. See NRAP 3A(b)(7); Pan, 120 Nev. at 225, 88 P.3d at 841. Accordingly, as an adequate legal remedy exists, we deny the petition.

It is so ORDERED.


_____, J.
Saitta


_____, J.
Hardesty

cc: Hon. Mathew Harter, District Judge
Roberts Stoffel Family Law Group
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP/Las Vegas
Eighth District Court Clerk