

IN THE SUPREME COURT OF THE STATE OF NEVADA

CINDY DELLAVALLE,

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

THOMAS DELLAVALLE,

Real Party in Interest.

No. 61823

FILED

OCT 09 2012

TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging a district court's oral decision dissolving a temporary protection order concerning the minor children in a domestic relations matter.

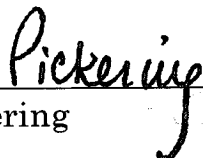
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). 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).

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. NRAP 21(b)(1). In particular, petitioner has not provided this court 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, our review of the

August 1, 2012, district court minutes indicates that while the district court dissolved the temporary protective order in case no. T-12-142232, the court simultaneously issued a restraining order with similar terms in the divorce proceeding. It does not appear that the district court disregarded petitioner's motion to hold the real party in interest in contempt for violating the temporary protective order, as petitioner contends, rather, the August 1, 2012, minutes reflect that a hearing on that motion was set for August 27, 2012. Petitioner has provided no information about the outcome of that hearing. Finally, the district court has conducted hearings on petitioner's domestic violence allegations, interviewed the children, and limited the real party in interest's contact with the children. Based on the documentation provided, petitioner has not demonstrated an arbitrary or capricious exercise of discretion by the district court or that our intervention by extraordinary writ is warranted. See International Game Tech., 124 Nev. at 197, 179 P.3d at 558; Pan, 120 Nev. at 228-29, 88 P.3d at 844. Accordingly, we deny the petition. NRAP 21(b)(1).

It is so ORDERED.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. Vincent Ochoa, District Judge
Robert W. Lueck, Esq.
Kelleher & Kelleher, LLC
Eighth District Court Clerk