

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARTINIANO QUE,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
BRYCE C. DUCKWORTH, DISTRICT
JUDGE,

Respondents,

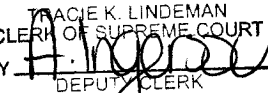
and

ELIZABETH QUE,
Real Party in Interest.

No. 62159

FILED

NOV 26 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

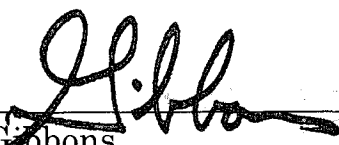
This is an original petition for a writ of prohibition seeking to arrest the proceedings in the underlying divorce action on the basis that the district court lacks jurisdiction over the divorce because the parties' marriage has been declared void ab initio by a court in the Philippines.


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 petitioner's burden to demonstrate that this court's extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Writ relief is generally not available, however, when the petitioner has a plain, speedy, and adequate remedy at law. See NRS 34.330; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). The right to appeal is generally considered an adequate legal remedy that precludes extraordinary relief. International Game Tech., 124 Nev. at 197, 179 P.3d at 558.

Having considered the petition, we conclude that our intervention by way of extraordinary relief is not warranted. NRAP 21(b)(1). In particular, petitioner may appeal from a final judgment entered in the divorce proceeding, or from a post-judgment order denying a motion for relief from a judgment under NRCP 60(b). See NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (recognizing that a final judgment is one that disposes of all issues presented and leaves nothing for the court's future consideration, except for certain post-judgment issues); Holiday Inn v. Barnett, 103 Nev. 60, 63, 732 P.2d 1376, 1379 (1987); see also NRCP 60(b)(4) (providing that the court may relieve a party from a final judgment if the judgment is void). Accordingly, as an adequate legal remedy exists, we deny the petition. See NRAP 21(b)(1); Pan, 120 Nev. at 228, 88 P.3d at 844.

It is so ORDERED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Bryce C. Duckworth, District Judge, Family Court Division
Piazza & Associates
Abrams Law Firm, LLC
Eighth District Court Clerk