

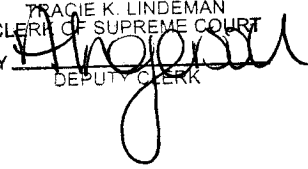
IN THE SUPREME COURT OF THE STATE OF NEVADA

NICHOLAS M.,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
FRANK P. SULLIVAN, DISTRICT
JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 62955

FILED

OCT 18 2013

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus or prohibition that challenges a district court order denying an objection to the master's oral findings and recommendations in an abuse and neglect proceeding.

Petitioner contends that the district court erred in concluding that petitioner received proper notice of the abuse and neglect petition. We agree. An abuse and neglect proceeding is initiated by the filing of a petition under NRS 432B.510, alleging that a child is in need of protection. After the petition has been filed, NRS 432B.520 requires that a summons be issued notifying the child's parents, and any person with custody or control of the child, of the time and place of the adjudicatory hearing. NRS 432B.520(1) and (2). The summons must be personally served on a parent and any person with custody or control of the child residing within the state, unless that person cannot be found, in which case the summons may be mailed to that person's last known address. NRS 432B.520(4)(a) and (b).

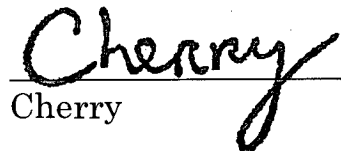
Here, the petition alleged that petitioner had physically abused the child. The district court found that while petitioner was not served with a summons, he had actual notice of a letter sent to him advising him of the trial date. Specifically, an investigator for Social Services testified that she sent a letter via certified mail to petitioner's residence, and he signed a receipt for the letter. This court has held that actual notice is not a substitute for service of process. See *C.H.A. Venture v. G.C. Wallace Consulting Eng'rs, Inc.*, 106 Nev. 381, 384, 794 P.2d 707, 709 (1990). Because petitioner was not properly served with a summons under NRS 432B.520, the district court lacked jurisdiction to adjudicate the petition as to him. *Id.*

Accordingly, we grant this petition and we issue a writ of mandamus directing the district court to enter an order vacating the master's findings and recommendations that sustained the May 28, 2010, abuse and neglect petition as to petitioner.¹

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

¹Although the master's findings and recommendations were never reduced to writing, the district court entered an order on March 18, 2013, denying petitioner's objection to the master's recommendations, which effectively affirmed the master's findings and recommendations.

cc: Hon. Frank P. Sullivan, District Judge, Family Court Division
Special Public Defender
Attorney General/Carson City
Clark County District Attorney
Clark County District Attorney/Juvenile Division
Eighth District Court Clerk