

IN THE SUPREME COURT OF THE STATE OF NEVADA

ELENA SETTLES,
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
ALEXANDER SETTLES,
Real Party in Interest.

No. 64811

FILED

MAR 17 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

*ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION*

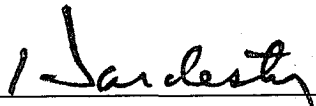
This is an original petition for a writ of mandamus or prohibition seeking to vacate district court orders concerning child custody. As directed, real party in interest has filed an answer, and petitioner has filed a reply.

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; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 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. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is within this court's sole discretion to determine if a writ petition will be considered. *Smith*, 107 Nev. at 677, 818 P.2d at 851. Petitioner bears the burden of

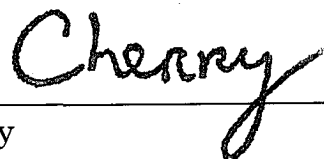
demonstrating that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). An appeal is typically an adequate legal remedy precluding writ relief. *Id.* at 224, 88 P.3d at 841.

Having considered the parties' arguments, we conclude that our intervention by extraordinary writ relief is not warranted as petitioner has an adequate legal remedy in the form of an appeal from an adverse judgment. See NRS 34.170; NRS 34.330; *Pan*, 120 Nev. at 224, 88 P.3d at 841. In particular, petitioner can appeal from either the final judgment in the divorce action or an order finally establishing child custody. See NRAP 3A(b)(1), (7). Accordingly, we

ORDER the petition DENIED.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Mathew Harter, District Judge
Kunin & Carman
Willick Law Group
Eighth District Court Clerk

¹In light of this order, petitioner's March 14, 2014, motion for a stay is denied as moot.