

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID L. MANN, ESQ.

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK;  
AND THE HONORABLE WILLIAM S.  
POTTER, DISTRICT JUDGE,

Respondents,

and

KASSYA NESTOR,

Real Party in Interest.

No. 65078

**FILED**

**MAR 10 2014**

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

*ORDER DENYING EMERGENCY PETITION FOR  
WRIT OF MANDAMUS OR PROHIBITION*

This is an emergency petition for a writ of mandamus or prohibition challenging a district court order directing the advance payment of certain attorney fees and placing limitations on petitioner's ability to utilize unbundled counsel in a family law 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; *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.

In addition, this court has held that petitioner bears the burden of demonstrating that this court's extraordinary intervention is

warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). To that end, NRAP 21(a)(4) requires that a petitioner provide copies of any “parts of the [district court] record . . . that may be essential to understand the matters set forth in the petition.” But here, petitioner has only provided this court with a copy of the challenged order and a copy of the district court’s minutes from November 13, 2013. Petitioner has not provided this court with copies of the transcript from the November 26, 2013, hearing that resulted in the order challenged in this petition, any relevant motion practice leading up to that hearing, or any other portions of the district court record. As a result, we conclude that petitioner has failed to meet his burden of demonstrating that this court’s intervention by way of extraordinary writ relief is warranted, and we therefore deny the petition. NRAP 21(a)(4); NRAP 21(b)(1); *Pan*, 120 Nev. at 228, 88 P.3d at 844.

It is so ORDERED.<sup>1</sup>

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Cherry, J.  
Cherry

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<sup>1</sup>We further note that, although petitioner designated his petition as requiring relief on an emergency basis, he failed to provide a specific date by which relief is necessary or otherwise explain what irreparable harm he would suffer within 14 days of the petition’s filing absent such relief, as required by NRAP 21(a)(6) and NRAP 27(e).

cc: Hon. William S. Potter, District Judge, Family Court Division  
Law Firm Express  
Kelleher & Kelleher, LLC  
Eighth District Court Clerk