

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHERYL J. HIGGINS,

No. 36323

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF CLARK, AND THE  
HONORABLE ROBERT W. LUECK,  
DISTRICT JUDGE, FAMILY COURT  
DIVISION,

**FILED**

AUG 17 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Schade*  
CHIEF DEPUTY CLERK

Respondents,

and

VINCENT RAMPINO,

Real Party in Interest.

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This original petition for a writ of prohibition challenges a district court's order temporarily placing petitioner's child with Child Protective Services pending a hearing.

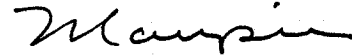
On June 20, 2000, the respondent district court judge temporarily placed petitioner's eleven-month-old child with Child Haven pending a hearing on June 22, 2000, to determine whether the child should be placed with a third party. On June 22, 2000, petitioner filed this petition for writ of prohibition, contending that the district court acted in excess of its jurisdiction, pursuant to NRS 125.500(1), because the court had not conducted an evidentiary hearing or made specific findings before temporarily taking the child from her.

NRS 125.500(1) provides in relevant part that "[b]efore the court makes an order awarding custody to any person other than a parent, . . . it shall make a finding that an award of custody to a parent would be detrimental to the

child and the award to a nonparent is required to serve the best interest of the child." We conclude that NRS 125.500(1) is not applicable to the present matter because the district court did not "award" custody of the child to a third person. The district court temporarily placed the child in protective custody.

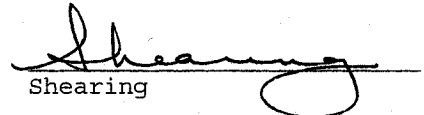
This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. See NRS 34.320. Having reviewed the documents before this court, we conclude that the district court did not exceed its jurisdiction when it temporarily ordered the child to be placed in protective custody pending a hearing. Accordingly, we deny this petition. See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

It is so ORDERED.



Maupin

J.



Shearing

J.



Becker

J.

cc: Hon. Robert W. Lueck, District Judge  
Attorney General  
Clark County District Attorney  
Carmin J. Colucci & Associates  
William G. Henderson  
Clark County Clerk