

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAURA ANNE BENSON,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
JENNIFER ELLIOTT, DISTRICT  
JUDGE,  
Respondents,  
and  
JAMES WILTSE,  
Real Party in Interest.

No. 71530

**FILED**

OCT 24 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER DENYING PETITION*

This is an original petition for a writ of mandamus challenging a district court order that, in part, limited the participation of petitioner's attorney in representing her in a child custody matter.

Having considered the documents before this court, we conclude that petitioner has not met her burden of demonstrating that extraordinary writ relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (providing that petitioner bears the burden of demonstrating that extraordinary relief is warranted); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (explaining that it is within this court's sole discretion to determine if a writ petition will be considered); NRAP 21(b)(1). Petitioner fails to demonstrate that the district court manifestly abused its discretion in granting the motion to disqualify petitioner's counsel to the extent it did. *See State v. Eighth Judicial Dist. Court (Armstrong)*, 127 Nev. 927, 931-32, 267 P.3d 777, 780 (2011) ("[a] manifest abuse of discretion is a clearly

erroneous interpretation of the law or a clearly erroneous application of the law or rule” (internal quotations, brackets, and citations omitted)). As the district court’s order noted, petitioner’s counsel is now a participant in the child custody evaluation in progress and is a material witness with respect to some of the determinations to be made in this matter; further, the district court’s order recognizes “the work done on the case” by counsel and also petitioner’s right to her choice of counsel, and accordingly limited the disqualification to not being able to act as trial counsel. *See DiMartino v. Eighth Judicial Dist. Court*, 119 Nev. 119, 66 P.3d 945 (2003). Accordingly, we

ORDER the petition DENIED.<sup>1</sup>

Cherry J.  
Cherry  
Douglas J.  
Douglas  
Gibbons J.  
Gibbons

cc: Hon. Jennifer Elliott, District Judge, Family Court Division  
Robert W. Lueck, Esq.  
Louis C. Schneider, LLC  
Eighth District Court Clerk

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<sup>1</sup>Petitioner’s motion for a stay is denied as moot.