

IN THE SUPREME COURT OF THE STATE OF NEVADA

KELSIE N.,  
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE; AND THE HONORABLE  
EGAN K. WALKER, DISTRICT JUDGE,

Respondents,

and

WASHOE COUNTY DEPARTMENT OF  
SOCIAL SERVICES,

Real Party in Interest.

No. 71385

**FILED**

SEP 30 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DENYING PETITION FOR WRIT OF MANDAMUS*

This is an emergency original petition for a writ of mandamus challenging the district court's denial of a motion to continue a parental rights termination trial.

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. NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Whether or not to continue a trial for good cause is within the sound discretion of the district court. *See* WDCR 13; *Bongiovi v. Sullivan*, 122 Nev. 556, 570, 138 P.3d 433, 444 (2006).

Having considered the petition and appendix, we conclude that petitioner has not met her burden of demonstrating that extraordinary writ relief is warranted at this time. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). In particular, petitioner has not made a sufficient showing of prejudice with respect to

either the time needed by petitioner's counsel in preparing for trial or the unavailability of the witness. *See Bongiovi*, 122 Nev. at 570, 138 P.3d at 444; *see also Higgs v. State*, 126 Nev. 1, 9, 222 P.3d 648, 653 (2010). We therefore cannot conclude at this time that the district court's denial of the motion for a continuance was an arbitrary or capricious exercise of discretion. Moreover, petitioner can challenge interlocutory orders of the district court on appeal from the final judgment. *See Pan*, 120 Nev. at 224, 88 P.3d at 841 (providing that an appeal is generally considered an adequate legal remedy precluding writ relief); *Consol. Generator-Nev., Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1312, 971 P.2d 1251, 1256 (1998) (recognizing that interlocutory orders may be challenged in the context of an appeal from a final judgment). Under these circumstances, we conclude that our intervention is not warranted at this time, and we deny the writ petition without prejudice. NRAP 21(b)(1); *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).

It is so ORDERED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

cc: Hon. Egan K. Walker, District Judge  
Washoe County Public Defender  
Washoe County District Attorney  
Washoe District Court Clerk