

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TODD ROBBEN,
Petitioner,
vs.
THE FIRST JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CARSON CITY,
Respondent,
and
THE HONORABLE WILLIAM A.
MADDOX, SENIOR JUDGE,
Real Party in Interest.

No. 79905-COA

FILED

JAN 30 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS*


This original petition for extraordinary relief challenges a post-divorce decree order modifying custody and a district court order denying a petition for judicial review entered in a separate employment 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 has discretion as to whether to entertain a petition for extraordinary relief and will not do so when the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170; *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition and supporting documents filed in this matter, we conclude that petitioner had a plain, speedy, and adequate remedy available in the form of an appeal from the challenged orders. See NRAP 3A(b)(7) (authorizing appeals from orders finally establishing or altering the custody of minor children); see also NRS 233B.150 (providing for an appeal to the appellate courts from a district court's final decision on a petition for judicial review of an administrative decision). Insofar as an appeal from the challenged orders at this point would be untimely, "writ relief is not available to correct an untimely notice of appeal." *Pan*, 120 Nev. at 224-25, 88 P.3d at 841. Accordingly, we conclude that petitioner has failed to demonstrate that extraordinary writ relief is warranted, and we deny the petition. *Id.* at 228, 88 P.3d at 844; see also NRAP 21(b)(1); *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737.

It is so ORDERED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹Insofar as petitioner seeks forms of relief other than a writ of mandamus, we have considered his requests and deny them.

cc: Todd Robben
Attorney General/Carson City
Carson City Clerk