

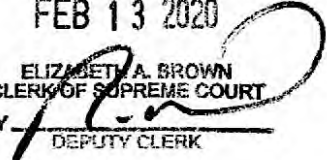
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TODD ROBBEN,
Petitioner,
vs.
THE STATE OF NEVADA
DEPARTMENT OF TAXATION,
Respondent.

No. 79906-COA

FILED

FEB 13 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF CORAM VOBIS

This original petition for a writ of coram vobis challenges a post-divorce decree order modifying child custody and a district court order denying a petition for judicial review entered in a separate employment matter.

In *Trujillo v. State*, the supreme court recognized that the writ of coram vobis is essentially the same as the writ of coram nobis. 129 Nev. 706, 710 & n.3, 310 P.3d 594, 597 & n.3 (2013) (discussing the historical roots of the writs of coram vobis and coram nobis); *see also* 11 Charles Alan Wright, Arthur R. Miller, & Mary Kay Lane, *Federal Practice & Procedure* § 2867 (3d ed. 2012) (stating that coram vobis is another name for coram nobis). Thus, although *Trujillo* primarily concerned the writ of coram nobis, we look to that case in evaluating the present petition for a writ of coram vobis. And under *Trujillo*, the extraordinary remedy of a writ of coram vobis, like its counterpart, the writ of coram nobis, is only available in exceedingly rare circumstances. 129 Nev. at 719, 310 P.3d at 603 (describing the writ of coram nobis as an extraordinary remedy and echoing

20-06146

the sentiment of the United States Court of Appeals for the First Circuit that such relief “should be hen’s-teeth rare” (internal quotation marks omitted)). Moreover, because the writ of coram vobis is an extraordinary remedy, a petition for such relief must “conform, so far as is practicable, to the procedure prescribed in [NRAP] 21(a) and (b).” See NRAP 21(c). Consequently, petitioner bears the burden of demonstrating that he is entitled to a writ of coram vobis. 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 failed to demonstrate that this court’s extraordinary intervention is warranted. Indeed, the writ of coram vobis was abolished in the civil context by the 2005 amendments to NRCP 60. See *In re. A Study Comm. to Review the Nev. Rules of Civil Procedure*, ADKT 276 (Order Amending the Nevada Rules of Civil Procedure, July 26, 2004) (effective January 1, 2005); *NC-DSH, Inc. v. Garner*, 125 Nev. 647, 650 n.1, 218 P.3d 853, 856 n.1 (2009) (recognizing that the writs of coram nobis and coram vobis were abolished in the civil context by the 2005 amendments to NRCP 60(b)); *but see Trujillo*, 129 Nev. at 714-16, 716 n.9, 310 P.3d at 599-601, 600 n.9 (holding that the writ of coram nobis is available in certain criminal cases). And regardless, because the writ of coram vobis was a mechanism for having a court set its own judgment aside due to errors of fact not present in the record, it was not available in original proceedings before appellate courts. See *Trujillo*, 129 Nev. at 718 n.11, 310 P.3d at 602 n.11 (explaining that writs of coram nobis—which the court previously determined were essentially identical to writs of coram vobis—were not available in original proceedings before appellate courts).

Accordingly, we deny the petition. NRAP 21(b); *Pan*, 120 Nev. at 228, 88 P.3d at 844.

It is so ORDERED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Todd Robben
Attorney General/Carson City

¹Insofar as petitioner seeks relief other than a writ of coram vobis, we have considered his requests and conclude they are without merit.