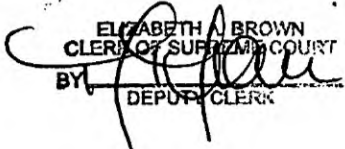


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID DIXON,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
DEDREE BUTLER, DISTRICT JUDGE,
Respondents,
and
JANAE DIXON,
Real Party in Interest.

No. 87145-COA

FILED
DEC 13 2023
ELIZABETH BROWN
CLERK OF SUPERIOR COURT
BY: 
DEPUTY CLERK

*ORDER DENYING PETITION FOR WRIT OF PROHIBITION
AND WRIT OF MANDAMUS*

David Dixon filed an original petition for a writ of prohibition and a writ of mandamus¹ seeking to challenge a temporary child custody modification order. David argues that his due process rights were violated by the court entering the temporary custody order prior to him presenting his case during the underlying proceedings.

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

¹David titled his writ petition as one seeking a writ of prohibition, but within the petition sets forth the standards for a writ of mandamus. As a result, this order addresses both.

34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). 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 district court's jurisdiction. NRS 34.320; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Mandamus and prohibition are extraordinary remedies, and it is within the discretion of this court to determine if a petition will be considered. *Smith*, 107 Nev. at 677, 818 P.2d at 851. Petitioner bears the burden to show that extraordinary relief is warranted, and such relief is proper only when there is no plain, speedy, and adequate remedy at law. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004).


Based on our review of the documents before us, we conclude David has not demonstrated that our extraordinary intervention is warranted. *Id.* at 224, 88 P.3d at 844. The district court's order is a temporary order and was primarily based on testimony given during the court's hearing, along with video exhibits presented to the court. David failed to provide this court with a transcript from that hearing or the video exhibits referenced by the court in its order. See NRAP 21(a)(4) (requiring the petitioner to submit an appendix containing all documents "essential to understand the matters set forth in the petition"); cf. *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (explaining that, in the context of an appeal, "[w]hen an appellant fails to include necessary documentation in the record, [the appellate court] necessarily presume[s] that the missing portion supports the district court's decision").

As such, we conclude that David has failed to demonstrate that writ relief is appropriate and deny the petition. NRAP 21(b)(1) (providing that “[t]he court may deny the petition without ordering an answer”).

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Dedree Butler, District Judge, Family Division
McFarling Law Group
Smith Legal Group
Eighth District Court Clerk