

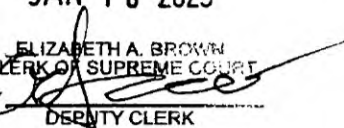
IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY BURNS,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MARIA A. GALL, DISTRICT JUDGE,
Respondents,
and
JANE DOE,
Real Party in Interest.

No. 88388

FILED

JAN 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR A WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order staying discovery and a subsequent order staying proceedings in a torts action. Real party in interest Jane Doe sued petitioner Gregory E. Burns and Burns filed counterclaims. The district court denied in part Doe's anti-SLAPP special motion to dismiss the counterclaims. Doe has appealed the partial denial, and as a result, the district court stayed discovery. After the parties failed to stipulate to a stay of the proceedings to avoid NRCP 41(e)'s five-year rule, the district court granted Doe's motion to stay the proceedings under the court's inherent power to issue stays. Burns now seeks writ relief from the district court's stay orders.

Having considered the petition, the answer, the reply, and the supporting documents, we conclude Burns fails to demonstrate that extraordinary relief is warranted. *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (observing that the party seeking writ

relief bears the burden of showing such relief is warranted); *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 679, 818 P.2d 851, 851, 853 (1991) (recognizing that writ relief is an extraordinary remedy and this court has the sole discretion in determining whether to grant relief). Specifically, Burns has failed to demonstrate that the district court manifestly abused its discretion or acted arbitrarily or capriciously in granting the motion to stay the proceedings. *See Walker v. Second Jud. Dist. Ct.*, 136 Nev. 678, 680, 476 P.3d 1194, 1196 (2020) (explaining that when the district court has discretion over an issue, mandamus relief is only available where the district court manifestly abused that discretion or acted arbitrarily or capriciously); *Aspen Fin. Servs. v. Eighth Jud. Dist. Ct.*, 128 Nev. 635, 640, 289 P.3d 201, 205 (2012) (providing that “the district court’s determination regarding whether a stay is warranted is a discretionary decision”).

The district court analyzed the relevant factors before granting the stay of proceedings, and the court’s determinations are supported by the record. *See Maheu v. Eighth Jud. Dist. Ct.*, 89 Nev. 214, 217, 510 P.2d 627, 629 (1973) (citing *Landis v. North American Co.*, 299 U.S. 248 (1936) to explain the court’s inherent power to stay proceedings in a case involving a previous stay and calendaring of pending motions); *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962) (outlining relevant factors in determining whether a district court acted within its discretion to stay proceedings under its inherent power). Burns fails to cite to any authority holding that Doe’s allegations or protracted stays constitute sufficient damage and does not articulate how he will be prejudiced by the delay in his ability to obtain evidence. As to hardships and inequities, Burns is partially responsible for delays since he removed the case to federal court without an “objectively reasonable basis,” as the federal district court concluded. And as the district

court correctly noted, Doe could be at risk of violating NRCP 41(e)'s 5-year rule without the stay. Finally, the orderly course of justice favors a stay due to the interrelated nature of the evidence required for Burns' and Doe's claims and the pending appeal, where this court will determine whether any of Burns' original counterclaims can move forward. Because Burns therefore fails to demonstrate that the district court clearly erred, manifestly abused its discretion, or acted arbitrarily and capriciously in granting the stay of proceedings, we conclude that our extraordinary intervention is not warranted. *See Pan*, 120 Nev. at 228, 88 P.3d at 844; *Walker*, 136 Nev. at 678, 476 P.3d at 1195. And because the district court order staying the proceedings in their entirety superseded its earlier stay of discovery, we do not consider Burns' challenge to the earlier stay. We, therefore,

ORDER the petition DENIED.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Maria A. Gall, District Judge
Hayes Wakayama Juan
Chesnoff & Schonfeld
Milan's Legal
Paul Padda Law, PLLC
Kern Law, Ltd.
Eighth District Court Clerk