

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KRISTEN ORTEGA N/K/A KRISTEN
MEDINA,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
NADIN CUTTER, DISTRICT JUDGE,
Respondents,
and
AARON ORTEGA,
Real Party in Interest.

No. 92312-COA

*ORDER GRANTING IN PART AND DENYING IN PART PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION*

Kristen Ortega n/k/a Kristen Medina petitions for a writ of mandamus or prohibition, challenging various orders in a child custody matter.

Medina and real party in interest Aaron Ortega were married and have one minor child together. The parties divorced in August 2023. Following an evidentiary hearing, in December 2025, the district court entered a written order modifying Ortega's parenting time. That custody order is currently on appeal in Docket No. 91803. However, while the appeal was pending, disputes arose over Medina apparently withholding the child from Ortega. Following hearings, the district court entered orders in January and February 2026 that further addressed the custodial arrangement and exchanges.

Subsequently, Ortega moved to modify custody so that he could have primary physical custody of the child, alleging Medina was continuing

to withhold the child from him. The district court entered a March 2, 2026, order shortening time, indicating it would hear Ortega's motion during a March 17 hearing. The court also issued an order appointing a guardian ad litem for the minor child. During the March 17 hearing, the district court continued the matter to March 19 and orally ordered the parties to appear in person for a custodial exchange of the minor child and warned the parties that a failure to appear may lead to the issuance of a bench warrant. During the March 19 hearing, Medina failed to appear with the child, even after the court called her and directed her to do so. As a result, the district court issued a bench warrant for Medina's arrest. The district court entered additional orders, including an order for return of the child, a warrant directed to law enforcement agencies to take physical custody of the child and deliver her to Ortega, and a written order from the March 17 hearing. Medina seeks writ relief from all the foregoing orders.

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, NRS 34.160, or to control an arbitrary or capricious exercise of discretion, *Int'l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition arrests the proceedings of a tribunal that is acting in excess of, or without, jurisdiction. NRS 34.320; *Club Vista Fin. Servs. v. Eighth Jud. Dist. Ct.*, 128 Nev. 224, 228, 276 P.3d 246, 249 (2012). The decision whether to entertain a petition for extraordinary writ relief is within our sole discretion, *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991), and the petitioner has the burden of demonstrating that such relief is warranted, *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Because the contempt determination is not appealable, we elect to entertain the

merits of this writ petition. *See Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000) (stating that “contempt orders must be challenged by an original petition pursuant to NRS Chapter 34”); *Div. of Child & Family Servs. v. Eighth Jud. Dist. Ct.*, 120 Nev. 445, 449-50, 92 P.3d 1239, 1242 (2004) (explaining that a contempt order is not appealable and the proper way for a party to challenge a contempt order is through a writ petition).

Medina seeks relief from the challenged orders by arguing that the district court entered orders while an appeal was pending such that it lacks jurisdiction, pointing to the court’s January 2026, February 2026, and March 2026 orders, which she argues expanded enforcement, altered visitation mechanics, or accelerated custody modification after appellate jurisdiction vested. Having considered the petition, answer, reply, supplements and appendices and other supporting documents, we conclude that Medina has not met her burden of demonstrating that our extraordinary intervention is warranted with respect to these issues. *See Pan*, 120 Nev. at 228, 88 P.3d at 844.¹ Moreover, to the extent Medina challenges the district court’s orders transferring custody over to Ortega, which includes the court’s determination that it was in the minor child’s best interest that Ortega be awarded temporary sole physical custody, as set forth in the district court’s warrant to take physical custody of the child and order for return of the child, we are not persuaded that our extraordinary intervention is warranted at this time. *Id.*

¹To the extent Medina also challenges the order certifying the district court’s intent to take a limited remand from the separate appeal in Docket No. 91803, relief is unwarranted for the same reason.

However, Medina also challenges the contempt determination and argues that the district court improperly issued a bench warrant for her arrest. Conversely, Ortega argues that the district court acted within its authority. Mandamus relief is typically only available to control a “manifest abuse of discretion” and “[w]hether a person is guilty of contempt is generally within the particular knowledge of the district court, and the district court’s order should not lightly be overturned.” *Pengilly*, 116 Nev. at 650, 5 P.3d at 571. Here, the district court did not enter a separate order to support its contempt finding; rather it issued a bench warrant that states that it found Medina in direct contempt of court pursuant to NRS 22.030 for not appearing with the minor child for the child custody exchange. *See* NRS 22.030(1) (providing that a direct contempt “may be punished summarily” since it occurs “in the immediate view and presence of the court”²); *Paley v. Second Jud. Dist. Ct.*, 129 Nev. 701, 705, 310 P.3d 590, 593 (2013) (explaining that since a direct contempt occurs in the court’s immediate view and presence, the court requires no additional information to enter a sanction). Although the district court did not specify whether it determined that the contempt was civil or criminal, and the purpose of the order was seemingly to obtain physical custody of the child, we conclude that the court’s contempt determination was criminal in nature given the lack of a

²NRS 22.030(1) sets forth that if the district court summarily punishes a person for direct contempt, “the court or judge shall enter an order that: (a) [r]ecites the facts constituting the contempt in the immediate view and presence of the court or judge; (b) [f]inds the person guilty of the contempt; and (c) [p]rescribes the punishment for the contempt.”

purge clause contained within the bench warrant. *See Rodriguez v. Eighth Jud. Dist. Ct.*, 120 Nev. 798, 804-05, 102 P.3d 41, 45-46 (2004) (providing that contempt leads to sanctions that may be either criminal, serving to punish past misbehavior, or civil, seeking to compel future compliance or to remedy the harm caused); *see also Lewis v. Lewis*, 132 Nev. 453, 458, 373 P.3d 878, 881 (2016) (explaining that because the district court’s contempt order did not contain a purge clause, it was criminal in nature).

In holding Medina in direct criminal contempt and issuing a bench warrant for her arrest, the district court failed to follow the proper procedure. Indeed, while NRS 22.030(1) permits the district court to summarily punish a direct contempt if it enters an order that, among other things, “[p]rescribes the punishment for the contempt,” the district court’s bench warrant did not expressly find Ortega guilty nor prescribe any fine or incarceration, *see* NRS 22.100(2), but instead, simply ordered Medina’s arrest pending further proceedings.

Furthermore, rather than setting a bail amount, *see* NRS 22.050 (“Whenever a warrant of attachment is issued pursuant to this chapter, the court or judge shall direct, by an endorsement on such warrant, that the person charged may be let to bail for his or her appearance, in an amount to be specified in such endorsement.”); *see also* NRS 178.484(1) (“Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.”), the court not only held that Medina was to be held without bail without finding her guilty, it allowed for up to a 72-hour period to elapse following her arrest before the court would be “notified” she had been arrested so further proceedings could be scheduled. Under these circumstances, we conclude that the district court abused its discretion by the procedure it

used in holding Medina in contempt and issuing a bench warrant for her arrest with no bail allowed.³

Accordingly, we

ORDER the petition GRANTED IN PART AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate the bench warrant issued against Medina.⁴



Bulla, C.J.



Gibbons, J.



Westbrook, J.

³We note that there appears to be proceedings set for August 2026 related to ongoing contempt, and nothing in this order precludes the district court from addressing any ongoing contempt.

⁴Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief or need not be reached given our disposition of this writ petition. Given our disposition of this writ petition, we lift the temporary stay imposed by our March 25, 2026, order. Furthermore, we note that the order for return of the child and warrant directed to law enforcement agencies to take physical custody of the child and deliver her to Ortega expired by their own terms on May 6, 2026, and it does not appear that these orders were executed on in light of this court's temporary stay. Nothing precludes the district court from reentering these orders if it determines that they are still warranted in light of the circumstances of this case.

cc: Hon. Nadin Cutter, District Judge, Family Division
Kristen Medina
TMR Law Group, PC
Eighth District Court Clerk