FILED
11/20/2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT

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, Respondents, and AARON ORTEGA, Real Party in Interest.	No. 93300-COA

ORDER GRANTING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION

Kristen Ortega, n/k/a Kristen Medina, petitions for a writ of mandamus or prohibition challenging a district court order of contempt 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. The divorce matter reopened when Ortega alleged that Medina was not allowing him to have his parenting time with the minor child. During a January 2025 hearing, the district court ordered Ortega to have supervised parenting time every other Sunday from 10:00 a.m.-2:00 p.m., and every other Wednesday from 5:00 p.m.-7:30 p.m. during the weeks he did not have Sunday parenting time. The written order from this hearing was entered on February 10, 2025.

In December 2025, Ortega filed a motion for an order to show cause as to why Medina should not be held in contempt because he had not seen the minor child between May 4 and November 2, 2025, and although Medina

permitted Ortega to exercise his parenting time with the child on November 2 and 9, she again withheld the child following November 9. The district court entered an order to show cause and set a hearing for January 21, 2026. The court held various hearings, appointed counsel for Medina, and scheduled the matter for an evidentiary hearing.

The matter proceeded to an August 2026 evidentiary hearing where Medina was represented by appointed counsel. At the conclusion of the evidentiary hearing, the district court found that Medina was in indirect contempt of the court's February 10, 2025, written order. In its written order following the evidentiary hearing, the court found that Ortega's motion and affidavit detailed the facts constituting the contempt and identified the specific provision of the February 10, 2025, order alleged to have been violated, and that an order to show cause was issued in December 2025. The court further found that Medina was represented by counsel. The court found that the testimony during the evidentiary hearing supported that there were 23 dates that Medina did not comply with the court's order for Ortega's supervised parenting time. The court found Medina's actions were willful, intentional, and calculated. The district court found Ortega satisfied the standard of proof for civil contempt, which was clear and convincing evidence, as he testified that Medina did not bring the minor child to supervised parenting time on 23 occasions.

The district court found that Ortega outlined at least 23 counts of contempt against Medina where she did not comply with the court's order for Ortega's parenting time and ordered Medina to serve two days of incarceration for each count of contempt for a total of 46 days. The court ordered Medina to serve 30 days of incarceration immediately but indicated that it would stay the remaining 16 days. The court awarded Ortega sole physical custody of the

minor child for the period of Medina's incarceration. The court indicated that it would set a hearing in six months to allow Medina to establish that she had complied with the court's orders for a period of six months. The court explained that, at the conclusion of the six months, it may elect to remove the remaining 16 days of incarceration if there was perfect compliance with the court's orders. Medina filed the present petition for a writ of mandamus or prohibition to seek relief from the district court's contempt determination.[1]

In her writ petition, Medina argues, among other things, that the district court improperly imposed criminal contempt sanctions using the standard for civil contempt. She argues the 30-day incarceration was criminal in nature, and the stay of the remaining 16 days did not convert the separate 30-day term into a civil contempt sanction. She also argues the court improperly applied the clear and convincing evidence standard when the standard for criminal contempt is proof beyond a reasonable doubt.

In Ortega's answer, he argues that the district court imposed a civil contempt sanction. He further argues that Medina's incarceration was the means the court chose to protect an initial period in which Ortega could exercise sole custody without Medina preventing an exchange, withholding the child, or otherwise defeating his time, as the court found she had done on 23 specified occasions amid a pattern that had deprived him of meaningful time with the child for years. He argues that because the incarceration was directed at restricting Medina's conduct to secure Ortega's custody with the minor child, the order operated to compel compliance, and thus, had a civil contempt purpose.

[1]On September 11, 2026, this court entered an order directing Medina's immediate temporary discharge from custody, temporarily staying the order of contempt, and directing an answer to the writ petition.

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). This court reviews contempt orders for an abuse of discretion. *Lewis v. Lewis*, 132 Nev. 453, 456, 373 P.3d 878, 880 (2016).

Generally, criminal contempt sanctions are punitive in nature, and act to punish a party for disobeying a court directive. *Rodriguez v. Eighth Jud. Dist. Ct.,* 120 Nev. 798, 804-05, 102 P.3d 41, 45-46 (2004). In contrast, civil contempt is considered to be remedial in nature, as the purpose of civil contempt is to coerce a party into future compliance with court orders. *Id.* at 805, 102 P.3d at 46. To this end, civil contempt sanctions are considered conditional; any sanctions imposed will terminate upon the offending party's

compliance with the court order at issue. *Id.* Conversely, criminal contempt sanctions are unconditional, as they are intended to punish past disobedience, rather than compel future compliance. *Id.*

Given the differing purposes of civil and criminal contempt proceedings, different procedural safeguards apply based on whether the contempt at issue is civil or criminal in nature. Notably, if a contempt proceeding is criminal in nature, the contemnor is entitled to the assistance of counsel at any hearing, and the allegations at issue must be proven beyond a reasonable doubt. *Hicks v. Feiock,* 485 U.S. 624, 632 (1988); *Rodriguez,* 120 Nev. at 804, 102 P.3d at 45. When a contempt proceeding is civil in nature, any allegations need only be proven by clear and convincing evidence. *In the Matter of Battaglia,* 653 F.2d 419, 422 (9th Cir. 1981).

In *Lewis*, the Nevada Supreme Court set out factors for determining whether a contempt is classified as civil or criminal. These include (1) whether the sanction is punitive or remedial, (2) whether the sanction is conditional or determinate, and (3) whether the contempt order contains a purge clause, allowing a contemnor to stop all sanctions upon compliance with the court's order. 132 Nev. at 457, 373 P.3d at 880-81. Applying this test, the supreme court concluded that a district court's contempt order sentencing the contemnor to 80 days of jail, which was stayed "on the condition that [the contemnor] follow the Orders of the Court," was criminal in nature because "the order failed to contain a purge clause that would allow" the contemnor to be released from the sentence. *Id*. at 456-58, 373 P.3d at 880-81 (internal quotation marks omitted).

Here, the district court's order imposed a 46-day incarceration sentence with the first 30 days of incarceration to be served immediately, while the remaining 16 days would be stayed. If Medina complied with the court's

orders, the court stated that it may elect to remove the remaining 16 days of incarceration. The order provides no mechanism by which Medina could change her behavior to be released before the expiration of the initial 30-day incarceration sentence. Thus, the contempt proceedings in this case were criminal in nature. *Lewis*, 132 Nev. at 457-58, 373 P.3d at 880-81; *Bohannon v. Eighth Jud. Dist. Ct.*, No. 69719, 2017 WL 1080066 at *3 (Nev Mar. 21, 2017) (Order Granting Petition in Part) (explaining that contempt proceedings were criminal in nature because the order imposed a 160-day suspended sentence, and when the district court lifted the stay on 30 days of petitioner's incarceration sentence, there appeared to be no mechanism by which petitioner could change her behavior to be released before the expiration of the 30-day sentence.). While the court's order explained that the stay of the remaining 16-days was a purge clause, inclusion of that provision did not provide Medina with any way to alleviate the initial 30-day incarceration, and thus, did not transform the overall sanction into one that was civil in nature. *See Detwiler v. Eighth Jud. Dist. Ct.*, 137 Nev. 202, 211, 486 P.3d 710, 719 (2021) (explaining that a contempt sanction was criminal "if the defendant has no way to purge his sentence to avoid or get out of jail" (internal quotation marks omitted)).

To impose a criminal contempt sentence, the district court was required to find any violation of the court's February 10, 2025, order beyond a reasonable doubt. *City Council of Reno v. Reno Newspapers, Inc.,* 105 Nev. 886, 893, 784 P.2d 974, 979 (1989) (applying the beyond-a-reasonable-doubt standard of proof to criminal contempt proceedings). But the court instead applied a clear and convincing evidence civil contempt standard. Therefore, we conclude that the district court abused its discretion in its contempt determination.

Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate its contempt determination.[2]

Bulla, C.J.

Gibbons, J.

Westbrook, J.

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

[2]Insofar 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. For the same reason, to the extent Medina seeks orders permitting her to proceed in forma pauperis, directing the preparation of transcripts, and directing the district court clerk to transmit certain audio recording, we deny her request. We also lift the temporary stay imposed by our September 11, 2026, order.

Lastly, this court takes no action with respect to Medina's motion for permission to file omitted Supplemental Appendix Volume III, as she has already filed the supplemental appendix.