

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY P. HAMPTON,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE T.
ARTHUR RITCHIE, JR., DISTRICT
JUDGE, FAMILY COURT DIVISION,

Respondents,

and

MINDY M. HAMPTON,
Real Party in Interest.

No. 39900

FILED

JUL 24 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
DEPUTY CLERK

ORDER DENYING PETITION
FOR WRIT OF PROHIBITION OR MANDAMUS

This is an original petition for a writ of prohibition or mandamus challenging a district court order that modifies a prior child custody order.

A writ of prohibition is the proper remedy to restrain a district court from exercising a judicial function without or in excess of its jurisdiction.¹ On the other hand, 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,² or to control an arbitrary or capricious exercise of discretion.³ In either case, the writ may be issued only when

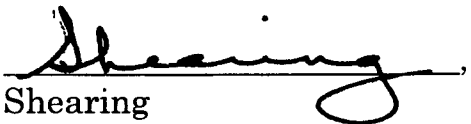
¹See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

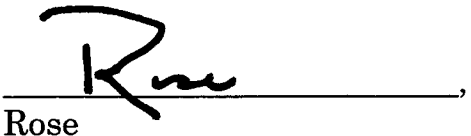
²See NRS 34.160.

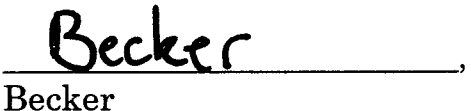
³See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

"there is not a plain, speedy and adequate remedy in the ordinary course of law."⁴ An appeal is generally an adequate remedy, precluding writ relief.⁵ Here, the June 25, 2002 order granting the motion to modify the child custody arrangement is an appealable order, and it appears that the time in which an appeal may be taken has not yet expired.⁶ Accordingly, we deny this petition.

It is so ORDERED.

 J.
Shearing

 J.
Rose

 J.
Becker

cc: Hon. T. Arthur Ritchie, Jr., District Judge, Family Court Division
Graziadei & Cantor, Ltd.
Connolly & Fujii
Clark County Clerk

⁴NRS 34.170; NRS 34.330.

⁵See Guerin v. Guerin, 114 Nev. 127, 953 P.2d 716 (1998), abrogated on other grounds by Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 5 P.3d 569 (2000).

⁶NRAP 3A(b)(2); NRAP 4(a)(1).