

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES F. MEEGAN, II,
Petitioner

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ROBERT E. GASTON, DISTRICT
JUDGE, FAMILY COURT DIVISION,
Respondents,
and
LILLIAN D. MEEGAN,
Real Party in Interest.

No. 40990

FILED

MAR 05 2003

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

ORDER DENYING PETITION FOR
WRIT OF PROHIBITION OR MANDAMUS

This original proper person petition for a writ of prohibition, or in the alternative, a writ of mandamus, seeks a writ from this court directing the district court to refrain from any further action in the underlying divorce proceeding.

A writ of prohibition is available to arrest proceedings that exceed the court's jurisdiction,¹ while a writ of mandamus is available to

¹NRS 34.320.

compel the district court to perform a required act,² or to control an arbitrary or capricious exercise of discretion.³ Petitions for extraordinary relief are addressed to this court's sound discretion.⁴

Based on the documents before this court, the procedural history in this matter is unclear. Under NRAP 21(a), petitioner has the burden of providing this court with a statement of facts necessary for this court's understanding of all issues raised and must also attach all documents needed for this court to render its decision. Petitioner contends that he was not properly served with the summons and complaint for divorce. Petitioner quotes from the summons, but fails to attach a copy of the document. Further, he insists he moved the district court to dismiss the complaint, and that the district court denied his motion. The order denying the motion to dismiss is also not attached to the petition. Finally, petitioner attaches a copy of an order dismissing without prejudice the complaint for divorce. Thus, it appears that this matter may be moot.⁵

²NRS 34.160.


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

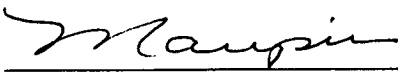
⁴Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991); NRS 34.170; NRS 34.330.

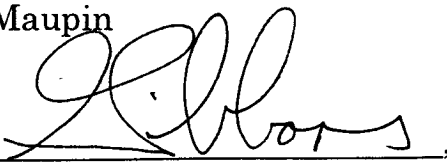
⁵See NCAA v. University of Nevada, 97 Nev. 56, 624 P.2d 10 (1981) (providing that a court's duty is to decide actual controversies by a judgment that can be carried into effect, not to give opinions on moot questions or abstract propositions, or to declare principles of law which cannot affect the matter in issue).

Accordingly, our intervention by way of extraordinary relief is not warranted at this time. Accordingly, we deny the petition.

It is so ORDERED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. Robert E. Gaston, District Judge, Family Court Division
Clark County District Attorney David J. Roger
James Francis Meegan II
Lillian D. Meegan
Clark County Clerk