

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD PREALLE JACKS,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
CONNIE J. STEINHEIMER, DISTRICT
JUDGE,

Respondents,

and

MONICA ANN JACKS,

Real Party in
Interest.

No. 42511

FILED

DEC 19 2003

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

ORDER DENYING PETITION

This petition for a writ of prohibition seeks to stay enforcement of the following judgments and orders: (1) Findings of Fact, Conclusions of Law and Decree of Divorce entered June 27, 2003; (2) Order entered October 14, 2003, resolving petitioner's motion to amend the Decree of Divorce; (3) Order entered October 14, 2003, amending the Decree of Divorce; (4) Order entered December 8, 2003, concluding that the district court retained jurisdiction to enforce its Decree of Divorce during the pendency of an appeal from that decree, and ordering petitioner to appear on December 18, 2003, to show cause why he should not be held in contempt of court; and (5) Corrected Order entered December 10, 2003, regarding the division of community property and the district court's jurisdiction to enforce the Decree of Divorce.


We have reviewed the petition, and we conclude that our intervention by way of extraordinary writ is not warranted at this time.

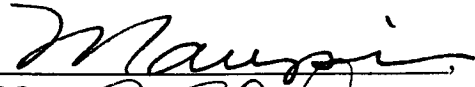
Specifically, to the extent petitioner seeks to stay enforcement of the June 27, 2003, Decree of Divorce and October 14, 2003, orders regarding the amendment of the Decree of Divorce, the petition is duplicative. We note that petitioner has filed a notice of appeal from the June 27, 2003, Decree of Divorce, and an amended notice of appeal from the October 14, 2003, orders. These notices of appeal were docketed in this court under Docket No. 41885. We further note that on December 17, 2003, petitioner filed, in the appeal, a motion that seeks to stay enforcement of the Decree of Divorce entered June 27, 2003, and the orders entered October 14, 2003. Accordingly, to the extent this petition similarly seeks a stay of the decree of divorce and orders, we deny the petition. See NRS 34.330; Hickey v. District Court, 105 Nev. 729, 782 P.2d 1336 (1989) (writ of prohibition will not issue where the petitioner has a plain, speedy and adequate remedy, such as an appeal, in the ordinary course of law).


Next, petitioner contends that the district court lacked jurisdiction to enforce its Decree of Divorce and to order him to appear on December 18, 2003, to show cause why he should not be held in contempt of court for failing to comply with the decree. More specifically, petitioner asserts that the filing of his notices of appeal divested the district court of jurisdiction to enforce the decree. We disagree. A trial court retains authority to enforce its judgments in the absence of an order staying execution. The mere filing of a notice of appeal, without a stay order, does not deprive the trial court of authority to enforce its judgment. See, e.g. White v. White, 362 N.E.2d 1013, 1019 (Ohio Ct. App. 1977). At the time of entry of the December 8, 2003, order directing petitioner to appear and show cause, no order had been entered by the district court or this court staying enforcement of the judgment. Accordingly, we also deny the

petition to the extent it challenges the orders entered December 8 and 10, 2003, concluding that the district court retains jurisdiction to enforce the Decree of Divorce.

It is so ORDERED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. Connie J. Steinheimer, District Judge
Law Office of Ronald J. Logar
Monica Ann Jacks
Washoe District Court Clerk