

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL W. CRIPPS,
Petitioner,

vs.

THE SEVENTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WHITE
PINE, AND THE HONORABLE
JOSEPH S. PAVLIKOWSKI, SENIOR
JUDGE,

Respondents,

and

TAMMY SUE CRIPPS,
Real Party in Interest.

No. 45990

FILED

MAY 19 2006

JANEY L. GILSON
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF PROHIBITION

This is a proper person original petition for a writ of prohibition challenging the district court's exercise of jurisdiction in a child support matter. Petitioner contends that he failed to receive notice of a June 2005 hearing, which resulted in an order concerning child support entered on July 8, 2005. Petitioner further contends that his appeal from the July 2005 order divested the district court of jurisdiction over the proceedings. Petitioner therefore argues that the district court lacks jurisdiction to make any further rulings in the underlying case.

This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court.¹ A petition for a writ of prohibition is addressed to the sound discretion of this court.²

We conclude that extraordinary relief is not warranted. First, petitioner's appeal did not divest the district court of jurisdiction over the underlying proceeding. We dismissed petitioner's appeal from the July 2005 order for lack of appellate jurisdiction because the order was not substantively appealable.³ Thus, the district court retained jurisdiction.⁴

Second, concerning petitioner's claim that he was not given notice of the June 2005 hearing, it appears that the district court vacated the July 2005 order based on lack of notice, and set the matter for a new hearing. We trust that the district court will address and resolve the matter as its calendar permits.

¹NRS 34.320.


²Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).


³See Cripps v. Cripps, Docket No. 45725 (Order Dismissing Appeal, November 28, 2005).

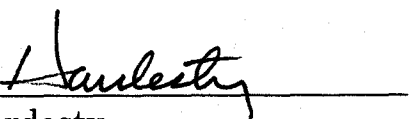
⁴See generally Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987) (noting that a premature notice of appeal does not divest the district court or jurisdiction to act).

Accordingly, as appellant has not demonstrated that extraordinary relief is warranted, we deny this petition.⁵

It is so ORDERED.⁶


Maupin J.


Gibbons J.


Hardesty J.

cc: Hon. Joseph S. Pavlikowski, Senior Judge
Michael W. Cripps
Tammy Sue Cripps
White Pine County Clerk

⁵See NRAP 21(b).

⁶While petitioner failed to pay the filing fee required by NRS 2.250(1)(a) and NRAP 21(e), he attached to his petition an application for leave to proceed in forma pauperis and an affidavit of financial condition. Having reviewed these documents, we conclude that petitioner has demonstrated good cause to waive the filing fee, and therefore, no filing fee is due.