IN THE SUPREME COURT OF THE STATE OF NEVADA

DARON W.,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE WILLIAM O. VOY,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 57807

FILED

MAY 10 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [signature]
DEPUTY CLERK

ORDER GRANTING PETITION

This is an original petition for a writ of mandamus or prohibition challenging a juvenile court order unsealing and releasing petitioner Daron W.'s juvenile records pursuant to NRS 62H.170.

A writ of prohibition is available to halt proceedings occurring in excess of a court's jurisdiction, NRS 34.320, while a writ of mandamus may issue to compel the performance of an act which 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, see Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). This court will exercise its discretion to consider petitions for extraordinary writs "only when there is no plain, speedy and adequate remedy in the ordinary course of law or there are either urgent circumstances or important legal issues that need clarification in order to promote judicial economy and administration." Cheung v. Dist. Ct., 121 Nev. 867, 869, 124 P.3d 550, 552 (2005) (internal quotation marks and footnote omitted).

11-13729

Daron contends that the juvenile court erred when it unsealed and released his juvenile court records because the plain meaning of NRS 62H.170 does not allow a juvenile's records to be unsealed for the purpose of using them against the juvenile in a certification hearing. We agree and conclude that extraordinary relief is warranted in this case.

NRS 62H.170 provides, in pertinent part, that "[a] district attorney or an attorney representing a defendant in a criminal action [may] petition [ ] the juvenile court to permit the inspection of [sealed] records to obtain information relating to the persons who were involved in the acts detailed in the records." NRS 62H.170(2)(c). In Walker v. District Court, this court addressed the corresponding criminal statute, NRS 179.295(3), which contains language substantially similar to NRS 62H.170(2)(c),[1] and concluded that a plain reading of that statute does not allow a district attorney to inspect "sealed records to obtain information that will be used against a defendant in a subsequent criminal proceeding." 120 Nev. 815, 821, 101 P.3d 787, 792 (2004) (internal brackets and quotation mark omitted). We reach the analogous conclusion here. The plain language of NRS 62H.170(2)(c) does not permit the district attorney to inspect sealed juvenile records to obtain information that will be used against the juvenile in subsequent certification proceedings. See Mendoza-Lobos v. State, 125 Nev. ___, ___, 218 P.3d 501,

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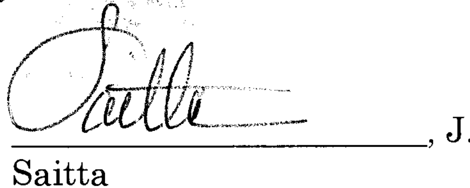
[1]NRS 179.295(3) provides that "[t]he court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded."

506 (2009) (noting that statutory interpretation is a question of law subject to de novo review).[2]

Accordingly, we conclude that the juvenile court acted arbitrarily and capriciously when it ordered Daron's juvenile records unsealed and released, and we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the juvenile court to vacate its order granting the State's motion to unseal/release Daron's juvenile records.[3]



_______________________, J.
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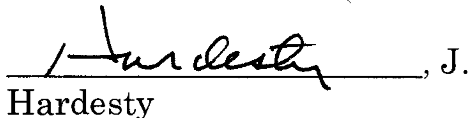

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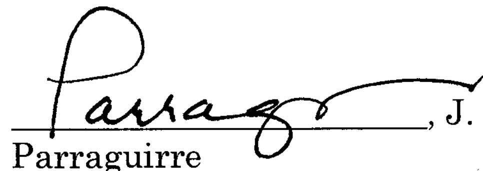

_______________________, J.
Parraguirre

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[2]We reject the State's argument that the juvenile court would be unable to conduct a full investigation pursuant to NRS 62B.390(1) if the sealed records are not examined; the court may still conduct an investigation just as it does for juveniles who have had no prior contact with the juvenile justice system. Further, to the extent the State relies on Zana v. State, 125 Nev. ___, 216 P.3d 244 (2009), and Baliotis v. State, 102 Nev. 568, 729 P.2d 1338 (1986), as authority to inspect sealed records, such reliance is inapposite because those cases hold only that persons with knowledge relating to information in sealed records are not precluded from testifying about or communicating such knowledge.

[3]We lift the stay imposed by this court on March 2, 2011. We also deny as moot Daron's April 12, 2011, motion to expedite the decision in this matter.

cc: Hon. William Voy, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Clark County District Attorney/Juvenile Division
Eighth District Court Clerk