

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL P. GARDNER,  
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE; AND THE HONORABLE  
PATRICK FLANAGAN, DISTRICT  
JUDGE,

Respondents,  
and

SHELLEY M. GARDNER, N/K/A  
SHELLEY M. WALKER,  
Real Party in Interest.

No. 61792

**FILED**

NOV 16 2012

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

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This is an original petition for a writ of prohibition that challenges a district court order finding petitioner in contempt, changing custody, and suspending petitioner's visitation with the minor children. We have reviewed the petition, the answer, and the reply filed in this matter.<sup>1</sup>

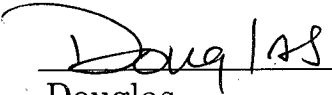
This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. See NRS 34.320; Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Writ relief is generally not available, however, when the petitioner has a plain, speedy, and adequate remedy at law. See NRS 34.330;

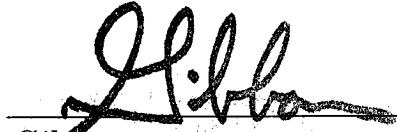
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<sup>1</sup>In light of our order, petitioner's October 11 and November 13, 2012, requests to submit this matter on the pleadings are denied as moot.

International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). NRAP 3A(b)(7) allows an appeal to be taken from an order altering the custody of minor children. The right to appeal is generally considered an adequate legal remedy that precludes extraordinary relief. International Game Tech., 124 Nev. at 197, 179 P.3d at 558. "[W]rit relief is not available to correct an untimely notice of appeal." Pan v. Dist. Ct., 120 Nev. 222, 224-25, 88 P.3d 840, 841 (2004). Moreover, extraordinary relief by way of a writ of prohibition is purely discretionary with this court. See Smith, 107 Nev. at 677, 818 P.2d at 851. Under these circumstances, we conclude that our intervention by way of extraordinary relief is not warranted. Accordingly, we deny the petition.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Patrick Flanagan, District Judge  
Rick Lawton  
Kathleen T. Breckenridge  
Washoe District Court Clerk