

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF F.A.,  
A MINOR,

No. 63910

F.A.,  
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, DISTRICT JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

FILED

NOV 14 2013

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

ORDER GRANTING PETITION

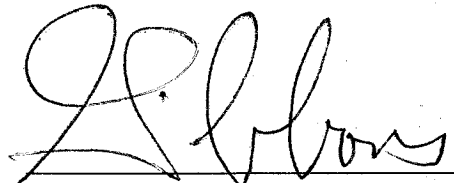
This is an original petition for a writ of mandamus. Petitioner seeks an order compelling the juvenile court to exercise its jurisdiction to rule on his motion for release from detention.

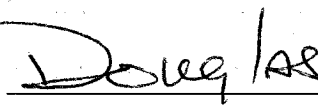
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, NRS 34.160, or to control an arbitrary or capricious exercise of discretion. *See Round Hill Gen. Imp. Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). The writ will not issue, however, if petitioner has “a plain, speedy and adequate remedy in the ordinary course of law.” NRS 34.170. Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *State v. Dist. Court (Armstrong)*, 127 Nev. \_\_\_, \_\_\_, 267 P.3d 777, 779-80 (2011). Here, we conclude petitioner lacks an

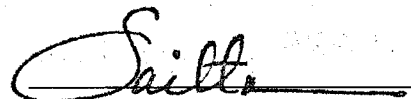
adequate remedy in the ordinary course of the law and elect to exercise our discretion and consider the petition.

The juvenile court concluded that the State's pending appeal from its order declining to certify petitioner to stand trial as an adult divested it of jurisdiction to rule on petitioner's custody status. While the timely filing of a notice of appeal divests a district court of jurisdiction to reconsider issues that are pending in this court, *Mack-Manley v. Manley*, 122 Nev. 849, 855, 138 P.3d 525, 529-30 (2006); see also *In re Erik A.L.*, 123 Nev. 26, 31, 153 P.3d 32, 35 (2007), citing *Rust v. Clark Cnty. Sch. Dist.*, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987), "the district court retains jurisdiction to enter orders on matters that are collateral to and independent from the appealed order, *i.e.*, matters that in no way affect the appeal's merits," *Mack-Manley*, 122 Nev. at 855, 138 P.3d at 530. Petitioner's custody status is collateral to the order challenged on appeal—the order denying the State's certification petition. Therefore, the timely filing of the notice of appeal from that order did not divest the juvenile court of jurisdiction to rule on petitioner's motion for release from custody, and we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the juvenile court to rule on petitioner's motion for release from detention.

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

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

  
\_\_\_\_\_, J.  
Saitta

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