

IN THE SUPREME COURT OF THE STATE OF NEVADA

JACKIE L. MCGREGOR F/K/A JACKIE
L. DAILEY,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
CHARLES M. MCGEE,
Respondents,
and
MICHAEL TIMOTHY DAILEY,
Real Party in Interest.

No. 65302

FILED

APR 03 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

**ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION**

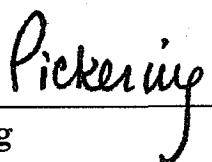
This is an original petition for a writ of mandamus or prohibition seeking an order that compels the district court to deny a motion to modify or terminate spousal support.

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, or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition is available when a district court acts without or in excess of its jurisdiction. NRS 34.320; *State v. Eighth Judicial Dist. Court*, 118 Nev. 140, 146-47, 42 P.3d 233, 237 (2002). Both mandamus and prohibition are extraordinary remedies, and whether a petition for extraordinary relief will be considered is solely within this court's discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d

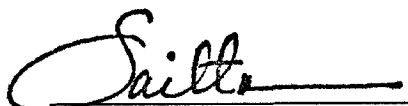
840, 844 (2004). Writ relief is typically not available when the petitioner has a plain, speedy, and adequate remedy at law. *See* NRS 34.170; NRS 34.330; *Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558.

Having considered the petition and the appendix, we conclude that petitioner has an adequate legal remedy in the form of an appeal from any adverse judgment. *See Int'l Game Tech.*, 124 Nev. at 197, 179 P.3d at 558; *Pan*, 120 Nev. at 224, 88 P.3d at 841 (explaining that an appeal is generally an adequate legal remedy precluding writ relief); *see also* NRAP 3A(b)(8) (allowing an appeal from a special order entered after a final judgment); *Gumm v. Mainor*, 118 Nev. 912, 920, 59 P.3d 1220, 1225 (2002) (defining special order after final judgment as affecting the rights of some party arising from the previous judgment). Additionally, any hardship associated with a subsequent appeal may be addressed through available procedures, such as a motion for a stay. *See* NRAP 8. Accordingly, as petitioner has a speedy and adequate remedy available in the form of an appeal, we deny the petition. *See* NRAP 21(b)(1); *Pan*, 120 Nev. at 224-25, 88 P.3d at 841; *Smith*, 107 Nev. at 677, 818 P.2d at 851.

It is so ORDERED.¹


Pickering, J.


Parraguirre, J.


Saitta, J.

¹In light of this order, petitioner's March 28, 2014, emergency motion for a stay is denied as moot.

cc: Chief Judge, The Eighth Judicial District Court
Hon. Charles M. McGee, Senior Judge
Vaccarino Law Office
Hutchison & Steffen, LLC
Eighth District Court Clerk