

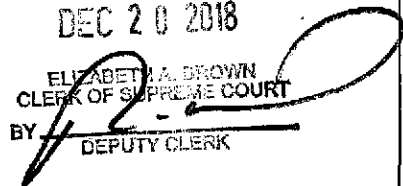
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ERYN LEIGH FLORES,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
CYNTHIA DIANNE STEEL, DISTRICT
JUDGE,
Respondents,
and
ROGER FLORES,
Real Party in Interest.

No. 77122-COA

FILED

DEC 20 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is a petition for a writ of mandamus that seeks to advance the date of a rescheduled hearing on petitioner's child custody and support motion.


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). This court has discretion as to whether to entertain a petition for extraordinary relief and will not do so when the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170; *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Here, petitioner challenges the district court's sua sponte decision to reschedule her motion, which sought, among other things, changes to temporary child custody and child support. The record demonstrates that the district court, without explanation, reset the hearing to a date five months beyond the initial hearing date and six months after the motion was filed. Given the important issues raised in this motion, the district court's decision to unilaterally move this hearing to a date so far in the future is troubling. But there is nothing in the record indicating that petitioner sought reconsideration of the decision to reschedule her motion or to advance the hearing date, and her petition does not assert that such relief was ever sought, much less that it was denied.

Absent the making and denial of such a request,¹ it cannot be said that petitioner lacks a speedy and adequate remedy at law, *see* NRS 34.170 (a writ of mandamus may be granted when there is no speedy and adequate legal remedy available), and thus we deny the petition. *Pan*, 120 Nev. at 228, 88 P.3d at 844; *see also* NRAP 21(b)(1); *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

¹Our denial of this petition is without prejudice to petitioner's right to file a new petition for mandamus relief should the district court deny any future request to expedite the hearing date to ensure petitioner's motion is considered in a more timely fashion.

cc: Hon. Cynthia Dianne Steel, District Judge, Family Court Division
Radford J. Smith, Chartered
Alverson Taylor & Sanders
Eighth District Court Clerk