

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TONY LIKER, ESQ.,
Petitioner,
vs.
THE FOURTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF ELKO;
AND THE HONORABLE ALVIN R.
KACIN, DISTRICT JUDGE,
Respondents,
and
ERICA WEISS,
Real Party in Interest.

No. 79326

FILED

AUG 06 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION*

This original petition for a writ of mandamus or prohibition challenges an August 2, 2019, district court order resetting a hearing for August 9, 2019, to determine whether an ex parte order granting petitioner's client temporary sole legal and physical custody of the children should be extended. Petitioner asks this court to issue a writ directing the district court to continue the hearing based on his medical condition.


Having reviewed the petition and supporting documents, we conclude that our extraordinary intervention is not warranted. From the documents before us, it appears that the district court has already once continued the hearing, which stems from a June 13, 2019, ex parte order, due to petitioner's medical condition and that the court is aware of petitioner's continuing condition but unwilling to further postpone this child custody matter. "The lower court has broad discretion in calendaring matters before it," *Maheu v. Eighth Judicial Dist. Court*, 89 Nev. 214, 216-17, 510 P.2d 627, 629 (1973), and we cannot conclude that the district court

manifestly abused or arbitrarily or capriciously exercised that discretion, *Round Hill Gen. Imp. Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981), or that it lacked or acted in excess of its jurisdiction, NRS 34.320, so as to warrant extraordinary relief. Further, petitioner's client was not named as a party to this writ proceeding, and the proof of service does not show that the client was served with a copy of the petition. See NRS 34.170 & NRS 34.330 (explaining that writs may issue only upon application of the party beneficially interested).

Therefore, we deny the petition. Additionally, we direct petitioner to immediately serve a copy of this order on his client and to, by 5 p.m. on Thursday, August 8, 2019, provide this court with proof of service.

It is so ORDERED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Alvin R. Kacin, District Judge
Law Offices of Tony Liker
Erica Weiss
Elko County Clerk

¹In light of this order, petitioner's emergency motion for relief is denied.