


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAUREN SEARS,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE LISA
M. BROWN, DISTRICT JUDGE,
Respondents,
and
ADAM EIKLEBERRY,
Real Party in Interest.

No. 81993-COA

FILED

DEC 21 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

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

This original petition for a writ of mandamus and/or prohibition challenges a temporary child custody order.

Petitioner Lauren Sears seeks a writ of mandamus and/or prohibition directing the district court to vacate its temporary child custody order—which apparently provided that real party in interest Adam Eikleberry would have primary physical custody of the parties' minor child—and enter a new temporary custody order.

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 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. Eighth Judicial Dist. Court*, 107

Nev. 674, 677, 818 P.2d 849, 851 (1991). The decision as to whether a petition for extraordinary writ relief will be entertained rests within this court's sound discretion. See *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. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

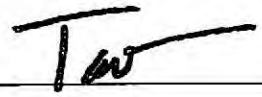
In her petition, Lauren asserts that the district court failed to consider the best interest of the child in awarding Adam temporary primary physical custody, pending trial. Specifically, she contends that the district court failed to consider the child's age, and her psychological and emotional needs in making its award, and failed to consider and address Lauren's allegations that Adam committed acts of domestic violence. Lauren bears the burden of demonstrating that extraordinary relief is warranted and the responsibility to provide this court with the necessary documents to understand the issues. See NRAP 21(a)(4) (requiring the petitioner to submit an appendix containing all documents "essential to understand the matters set forth in the petition"); *Pan*, 120 Nev. at 228, 88 P.3d at 844; cf. *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (explaining that, in the context of an appeal, "[w]hen an appellant fails to include necessary documentation in the record, [the appellate court] necessarily presume[s] that the missing portion supports the district court's decision"). And here, Lauren has not provided this court with the challenged order or the transcript of the district court proceedings that resulted in the order.

Under these circumstances, and given that the trial of the underlying matter is set to begin in March 2021, we conclude that Lauren has not demonstrated that our extraordinary intervention in this matter is

warranted at this time. *Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we deny the petition.¹ See NRAP 21(b)(1).

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Lisa M. Brown, District Judge, Family Court Division
Isso & Associates Law Firm, PLLC
Goulet Law, PLLC
Eighth District Court Clerk

¹Our denial is without prejudice to petitioner's right to file a new writ petition accompanied by all necessary supporting documents.