

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEBORAH CLAIR THOMAS,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
RHONDA KAY FORSBERG, DISTRICT
JUDGE,

Respondents,

and

TIMOTHY WARD,
Real Party in Interest.

No. 82615-COA

FILED

OCT 26 2021

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

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS*

This original petition for a writ of mandamus challenges a district court's order awarding attorney fees in a contempt proceeding.¹

Petitioner seeks a writ of mandamus directing the district court to vacate its order awarding attorney fees to real party in interest. In particular, the challenged order declined to set a show cause hearing and declined to find petitioner in contempt, but ultimately concluded that an award of attorney fees was warranted. Petitioner contends that the district court abused its discretion in awarding attorney fees because the court did not find her in contempt and the court provided no basis for the award.

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

¹The Honorable Jerome Tao, Judge, did not participate in the decision of this matter.

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; NRS 34.330; *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).

The district court has broad discretion to impose sanctions for litigation abuses, even those abuses not specifically proscribed by statute. *Young v. Johnny Ribeiro Bldg.*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990). Thus, this court reviews a district court's award of attorney fees, as a sanction, for an abuse of discretion. *Berkson v. LePome*, 126 Nev. 492, 504, 245 P.3d 560, 568 (2010).

Here, the district court summarily concluded in its order that an award of attorney fees was appropriate, without citing any authority. Although petitioner asserts that the district court awarded attorney fees as a contempt penalty, despite not holding petitioner in contempt, the record does not support this assertion. At the hearing, the district court stated that it was going to award attorney fees based on the parties having to come to court, which it believed should not have happened as the parties should have been able to work things out, and because it should not have taken an attorney to be involved to address this issue. Thus, our review of the record demonstrates that the district court sanctioned petitioner \$1,500 in attorney fees, not pursuant to a contempt finding under NRS Chapter 22, but for petitioner's conduct, failing to work with real party in interest, and

causing the parties to have to litigate the matter and incur attorney fees. And the district court has discretion to sanction a party with an award of attorney fees, in the amount incurred as a result of such conduct. *See* EDCR 7.60(b); *Detwiler v. Eighth Judicial Dist. Court*, 137 Nev., Adv. Op. 18, 486 P.3d 710, 721 (2021) (acknowledging that the district court has discretion to award fees as a sanction pursuant to EDCR 7.60(b)(5), aside from the court's power to award attorney fees in a contempt proceeding pursuant to NRS 22.100(3), and concluding that a sanction of fees pursuant to EDCR 7.60(b) is only reasonable if the fees are directly caused by the conduct).

Thus, because the district court did not award the attorney fees pursuant to a contempt finding under NRS Chapter 22, and otherwise had authority to sanction petitioner with an award of attorney fees, we conclude that our intervention in this matter is not warranted. *See Pan*, 120 Nev. at 228, 88 P.3d at 844; *Young*, 106 Nev. at 92, 787 P.2d at 779. Accordingly, we deny the petition. *See* NRAP 21(b)(1); *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Bulla

cc: Hon. Rhonda Kay Forsberg, District Judge
Deborah Clair Thomas
Naimi & Cerceo
Eighth District Court Clerk