

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSHUA LEE PERRY,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE

KATHY A. HARDCASTLE,

Respondents,

and,

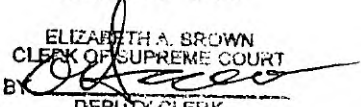
NAE-RYUNG LEE,

Real Party in Interest.

No. 86030-COA

FILED

MAR 03 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus challenging a district court order dismissing the child custody portion of the underlying divorce action.

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. NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Petitioner bears the burden to show that extraordinary relief is warranted, and such relief is proper only when there is no plain, speedy, and adequate remedy at law. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004). An appeal is generally an adequate remedy precluding writ relief. *Id.*

Here, petitioner has filed an appeal from the district court's dismissal of the custody portion of the underlying case, which is currently in the briefing process before the Nevada Supreme Court. *See Perry v. Lee*, Docket No. 86002. And while this original writ petition was filed after the related appeal, petitioner does not address that matter or otherwise assert that the appeal does not provide a speedy and adequate remedy that precludes writ relief. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. at 224, 228, 88 P.3d at 841, 844. Under these circumstances, we conclude that petitioner has not demonstrated that our extraordinary intervention is warranted at this time, and we therefore deny the petition. *Id.* at 228, 88 P.3d at 844; NRAP 21(b).

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Chief Judge, Eighth Judicial District Court
Hon. Kathy A. Hardcastle, Senior Judge
Hon. Sandra L. Pomrenze, Senior Judge
Eighth Judicial District Court, Family Division, Dept. A
McFarling Law Group
Naimi & Cerceo
Eighth District Court Clerk