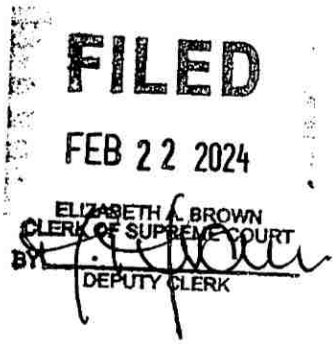
IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHERINE C.; AND E.C., A MINOR,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE ROBERT TEUTON, DISTRICT JUDGE,
Respondents,
and
DEPARTMENT OF FAMILY SERVICES,
Real Party in Interest.

No. 87795



ORDER DENYING PETITION

This original petition for a writ of mandamus challenges an interlocutory district court order substantiating an abuse and neglect petition under NRS Chapter 432B.

Petitioner Katherine C. is the mother of E.C. E.C. reported to a school administrator sexual abuse by Katherine's live-in boyfriend, who is also the father of E.C.'s younger brother. E.C. was removed from the home, and real party in interest the Department of Family Services (DFS) filed a petition alleging abuse and neglect against Katherine and her live-in boyfriend, including sexual abuse by Katherine's live-in boyfriend, Katherine's failure to protect E.C., and domestic violence. After an evidentiary hearing, the district court entered an order largely substantiating the petition. Katherine now seeks mandamus relief directing the district court to dismiss the abuse and neglect petition.

Katherine cannot appeal from the order substantiating DFS's abuse and neglect petition entered in NRS Chapter 432B proceedings. *See*

NRAP 3A(b)(7) (outlining as appealable determinations orders "entered in a proceeding that *did not arise in a juvenile court* that finally establishes or alters the custody of minor children" (emphasis added)); *Matter of L.L.S.*, 137 Nev. 241, 244, 487 P.3d 791, 796 (2021) (holding that proceedings under NRS Chapter 432B are to be conducted by a "court" which "has the same meaning as 'juvenile court' in NRS Chapter 62A"). Thus, we elect to entertain the writ petition. *Cf. Philip R. v. Eighth Judicial Dist. Court*, 134 Nev. 223, 226, 416 P.3d 242, 246 (2018) ("A petition for a writ of mandamus is the appropriate means to challenge a placement order entered in a proceeding under NRS Chapter 432B because the order is not appealable.").

Katherine first argues that the district court committed a due process violation by permitting certain witnesses to testify to events that occurred after E.C.'s removal, where NRS 432B.530 limits permissible evidence to events that occurred at the time of removal. Reviewing de novo, we disagree. *See Int'l Game Tech., Inc.*, 124 Nev. at 198, 179 P.3d at 559 ("Statutory interpretation is a question of law that we review de novo, even in the context of a writ petition.").

NRS 432B.530(5) provides that "[i]f the court finds by a preponderance of the evidence that the child was in need of protection at the time of the removal of the child from the home . . . , it shall record its findings of fact and may proceed immediately or at another hearing held within 15 working days, to make a proper disposition of the case." Nevertheless, NRS 432B.530(3) broadly provides that "[i]n adjudicatory hearings, *all relevant and material evidence* helpful in determining the questions presented, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value." Katherine fails to reconcile these two related statutes and fails to provide

any policy-based reasoning or legislative history to demonstrate that the Legislature intended for NRS 432B.530(5) to be read as narrowly as she contends. *See Nev. Gaming Comm'n v. Wynn*, 138 Nev. 164, 167, 507 P.3d 183, 186 (2022) ("A fundamental axiom of statutory interpretation is that related statutes must be read together."). And Katherine does not argue a lack of notice or that there was no opportunity to be heard on the issues raised during the evidentiary hearing, which is all that due process requires. *See Matter of Guardianship of D.M.F.*, 139 Nev., Adv. Op. 38, 535 P.3d 1154, 1163 (2023) (holding that due process requires that the affected parties "be afforded notice and an opportunity to be heard" as to the relevant issues). Thus, we conclude that Katherine fails to meet the burden for obtaining writ relief on this ground. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) ("Petitioners carry the burden of demonstrating that extraordinary relief is warranted.").

Reviewing de novo, *see Int'l Game Tech., Inc.*, 124 Nev. at 198, 179 P.3d at 559, we also disagree with Katherine's additional argument that the district court violated her due process rights by holding the evidentiary hearing on the petition more than 30 days after the petition was filed without making good cause findings, as required by NRS 432B.530(1). NRS 432B.530(1) provides that "[a]n adjudicatory hearing must be held within 30 days after the filing of the petition, unless good cause is shown or the hearing has been continued until a later date pursuant to NRS 432B.513." Katherine contends that the "petition was filed on February 8, 2023, and that the evidentiary hearing did not take place until August 7, 2023." The district court order substantiating the petition references two previous hearings held on February 15, 2023, and July 26, 2023, which Katherine does not address in the mandamus petition or include in the record. We

presume that missing portions of the record support the district court's determinations below, *see Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) ("[W]e necessarily presume that the missing portion[s] [of the record] supports the district court's decision."), and therefore conclude that Katherine has failed to meet the burden for demonstrating that writ relief is warranted on this ground, *see Pan,* 120 Nev. at 228, 88 P.3d at 844.

Finally, Katherine argues that substantial evidence does not support the district court's finding that Katherine failed to protect E.C. from sexual harm and/or domestic violence by Katherine's live-in boyfriend, and that the statements by E.C. regarding the sexual allegations were not credible. Thus, Katherine argues, the district court erred in substantiating the petition. As we have consistently held, "mandamus is available only where 'the law is overridden or misapplied, or when the judgment exercised is manifestly unreasonable or the result of partiality, prejudice, bias or ill will.'" *Walker v. Second Judicial Dist. Court*, 136 Nev. 678, 680-81, 476 P.3d 1194, 1196-97 (2020) (quoting *State v. Eighth Judicial Dist. Court (Armstrong),* 127 Nev. 927, 932, 267 P.3d 777, 780 (2011)). Given E.C.'s testimony, combined with the testimony of others, including the school counselor and Katherine's best friend, we conclude that substantial evidence supports the district court's finding that DFS met its burden of proving by a preponderance of the evidence the allegation regarding sexual abuse committed by Katherine's live-in boyfriend and the allegation regarding Katherine's failure to protect E.C. *See Aug. H. v. State*, 105 Nev. 441, 445, 777 P.2d 901, 903 (1989) (agreeing that NRS 432B.530(5) "requires only that the court find a preponderance of evidence showing that a minor child is in need of protection"); *In re Parental Rights as to M.F.*, 132

Nev. 209, 217, 371 P.3d 995, 1001 (2016) ("A preponderance of the evidence requires that the evidence lead the fact-finder to conclude that the existence of the contested fact is more probable than its nonexistence." (internal quotation marks omitted)). Thus, we conclude that Katherine fails to demonstrate that the district court overrode or misapplied the law, or that its judgment was "manifestly unreasonable or the result of partiality, prejudice, bias or ill will." *Walker*, 136 Nev. at 680-81, 476 P.3d at 1196-97. We therefore

ORDER the petition DENIED.

_____, J.
Herndon

_____, J.
Lee

_____, J.
Bell

cc: Hon. Robert Teuton, District Judge, Family Division
The Grigsby Law Group
Legal Aid Center of Southern Nevada, Inc.
Clark County District Attorney/Juvenile Division
Eighth District Court Clerk