

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATILDE CAMACHO MATHIAS,  
Petitioner,

vs.

THE SIXTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
LANDER, AND THE HONORABLE  
JERRY V. SULLIVAN, DISTRICT  
JUDGE,

Respondents,

and

ARTURO LEONARDO MATHIAS  
GAMBOA,

Real Party in Interest.

No. 39866

FILED

JUL 11 2002

JANETTE M. SLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This is an original petition for a writ of mandamus seeking an order from this court directing the district court to rule on petitioner's NRCP 59 motion for a new trial or to alter or amend a judgment changing child custody.

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.<sup>1</sup> A writ shall issue only where "there is not a plain, speedy and adequate

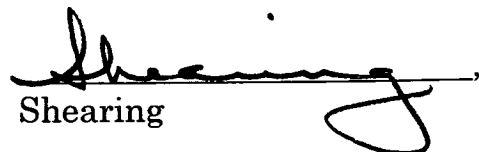
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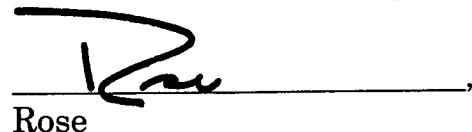
<sup>1</sup>See NRS 34.160; Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991); Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P. 2d 534 (1981).

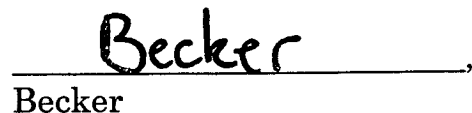
remedy in the ordinary course of law."<sup>2</sup> An appeal is generally an adequate and speedy remedy that precludes extraordinary relief.<sup>3</sup>

The documents before this court contain a letter from respondent Judge Sullivan, dated May 24, 2002, to counsel for petitioner and real party in interest, respectively, explaining that the judge is considering petitioner's NRCP 59 motion and whether it is in the child's best interest to grant relief. Thus, we conclude that extraordinary relief is not warranted. Once the district court formally rules on petitioner's motion, it appears that petitioner may timely appeal if she is aggrieved.<sup>4</sup> Accordingly, we deny the petition.

It is so ORDERED.<sup>5</sup>

 J.  
Shearing

 J.  
Rose

 J.  
Becker

cc: Hon. Jerry V. Sullivan, District Judge  
Stringfield Law Offices  
William E. Schaeffer  
Lander County Clerk

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<sup>2</sup>NRS 34.170.

<sup>3</sup>See Guerin v. Guerin, 114 Nev. 127, 953 P.2d 716 (1998).

<sup>4</sup>See NRAP 3A(a); NRAP 3A(b)(2); see also NRAP 4(a)(2).

<sup>5</sup>We expect the district court will resolve petitioner's motion in a timely manner, if it has not already done so.