

IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA GAMBINI,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE ROBERT E.
GASTON, DISTRICT JUDGE, FAMILY
COURT DIVISION,

Respondents,

and

PAUL GAMBINI,

Real Party in Interest.

No. 42514

FILED

NOV 16 2004

JANETTE M. BLOOM,
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

LISA S. MYERS-GAMBINI,
Appellant,

vs.

PAUL A. GAMBINI,

Respondent.

No. 42701

ORDER DENYING PETITION FOR WRIT OF
MANDAMUS OR PROHIBITION (NO. 42514)
AND AFFIRMING (NO. 42701)

Docket No. 42514 is an original petition for a writ of mandamus or prohibition challenging a district court's oral ruling concerning child custody, visitation, child support, and an award of attorney fees. Docket No. 42701 is a proper person appeal challenging the

same district court's ruling, which was reduced to a written order. Eighth Judicial District Court, Family Court Division, Clark County; Robert E. Gaston, Judge.

As for the writ petition, neither a writ of mandamus nor a writ of prohibition will issue if the petitioner has a plain, speedy and adequate remedy in the ordinary course of the law.¹ Because petitioner has an adequate legal remedy in the form of the appeal she filed in Docket No. 42701, we deny the petition in Docket No. 42514.²

As for the appeal, matters of child custody, support, and visitation are within the district court's sound discretion.³ The sole consideration in determining child custody is the best interest of the child.⁴ "It is presumed that a trial court has properly exercised its discretion in determining a child's best interest."⁵ Having reviewed the

¹NRS 34.170; NRS 34.330.

²See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). We further deny petitioner's request for a stay.

³Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996).

⁴NRS 125.480(1).

⁵Wallace, 112 Nev. at 1019, 922 P.2d at 543.

record, we conclude that the district court did not abuse its discretion.⁶ Accordingly, we affirm the district court's order in Docket No. 42701.

It is so ORDERED.⁷

Becker J.
Becker

Agosti J.
Agosti

Gibbons J.
Gibbons

cc: Hon. Robert E. Gaston, District Judge, Family Court Division
George R. Carter
Lukens & Kent, Chtd.
Lisa S. Meyers-Gambini
Clark County Clerk

⁶See NRS 125B.080(4) (setting the minimum amount of child support at \$100 per month for one child); see generally NRS 125.150(3); Carrell v. Carrell, 108 Nev. 670, 671-72, 836 P.2d 1243, 1244 (1992) (stating that an attorney fees award in a divorce action lies within the district court's sound discretion).

⁷Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have considered the proper person documents received from appellant in Docket No. 42701. In light of our order, we deny as moot appellant's motion for a stay.