

IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA MYERS,

Petitioner,

vs.

CALEB O. HASKINS,

Respondent.

Supreme Court Case No. 57621
District Court Case No. 00-D-434495

FILED

JAN 26 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *A. Ingraham*
DEPUTY CLERK

**EMERGENCY MOTION FOR STAY PENDING EMERGENCY PETITION
FOR WRIT OF MANDAMUS AND PROHIBITION AND,
EMERGENCY MOTION TO SET ASIDE AND/OR VACATE THE DISTRICT
COURT ORDER AS PER NRCP 59(e), 60 AND 61**

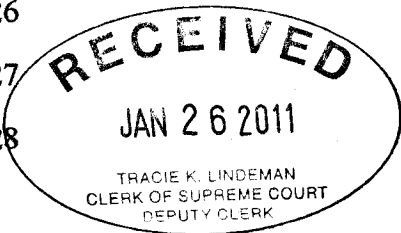
INSTRUCTIONS: Write only in the space allowed on the form. **Additional pages and attachments are not permitted.** The Nevada Supreme Court prefers short and direct statements. Citation to legal authority or the district court record is not required but would be helpful to the Court.

Any form you file with the Nevada Supreme Court must be mailed or delivered to all other parties to this appeal or to the parties' attorneys.

You may file your forms in person or by mail. You must file the original and copies with the Clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your form, you must submit the original and copies and include a self-addressed, stamped envelope. Documents cannot be faxed or e-mailed to the Clerk's Office.

This form must be filed with the Clerk of the Nevada Supreme Court at the following address:

Clerk of the Court Supreme Court of Nevada
201 South Carson Street
Carson City, Nevada 89701
Telephone: (775) 684-1600 or (702) 486-9300



1 **Judgment or Order You Are Appealing.** Specify the judgment or order that you are appealing
2 from and the date that the judgment or order was filed in the district court.

3 Filed Date Name of Judgment or Order
4 1/19/2011 hearing Order - Awaiting Court Minutes and Order to be drafted

5
6 ***will forward certified copy of Minutes and file-stamped copy of Order when available.**

7 **Notice of Appeal.** Specify the date you filed your notice of appeal in the district court: This is a
8 temporary Order, no final Order as yet. Therefore, Petitioner has not yet filed an Appeal.
9 However, Petitioner's Emergency Petition for Writ of Prohibition and Mandamus is forthcoming.

10 **Order to be Stayed.** A stay from the Nevada Supreme Court prevents enforcement of a
11 district court order. What do you want stayed? The Order from the 1/19/2011 hearing, whereby
12 Respondent was awarded three full unsupervised days with the parties minor child, Sydney Rose
13 Myers-Haskins (age 10mos.) despite the evidence of his mental and physical impairments,
14 conviction, extensive history of drug and alcohol abuse, anger problems, domestic abuse issues and
15 his abandonment of the minor child who has a history of RSV, Respondent previously signed a
16 Joint Agreement giving Petitioner Sole Physical and Sole Legal Custody of the parties minor child
17 waiving any visitation. Respondent also waived any visitation and refused a drug test at the prior
18 TPO hearing, as well. The Court further Ordered the Petitioner to undergo a psychological
evaluation based on a completely unrelated matter which is currently on Appeal (reference
Supreme Court Case No. 54626) and specifically a 2003 report by an unqualified individual (per
the State Psychological Board) and despite the acceptance of expert testimony and reports
rebutting same. The Court not only forced Petitioner to discuss in detail this completely unrelated
matter which is on Appeal, but placed her in the position of defending herself in this matter.

19 **Statement of Facts.** Briefly explain the facts related to your request for a stay. (Your answer must
20 be provided in the space allowed.) The hearing was to be a 16.2 Case Management Conference,
21 although opposing counsel filed a Motion for custody at the last minute providing Petitioner a copy
22 5 minutes prior to this 16.2 Conference. No OST was ever signed and filed or provided to
23 Petitioner, nor did opposing counsel Amanda Roberts ever provide Petitioner the Motion 3 days
24 prior to the hearing, nor was Petitioner ever given 10 days in order to properly file an
25 Opposition/Counter-motion. Despite these issues, the District Court - Family Division still allowed
26 it to be heard and allowed Petitioner's separate matter to be discussed, in depth, thereby Ordering
Petitioner to undergo a Psychological Evaluation. This Order for the Evaluation is based solely on
the issues from the prior matter which are currently on Appeal. Interestingly to note, despite the
fact Respondent has a conviction in the State of Colorado and that he has mainly resided in the
Carson City area, the Court only Ordered a Scope for Clark County, Nevada.

1 It is important to note the events leading up to this hearing. The 16.2 Conference was
2 originally noticed for November 22, 2010, although Amanda Roberts, counsel for Respondent
3 requested it be vacated at the last minute and submitted a Stipulation and Order. This hearing was
4 then vacated and the new hearing was to be noticed to both counsels by the Department, although
5 a notice was never filed and the on-line system evidenced the conference as being "off calendar".
6 During his time, Petitioner's now former counsel, Preston P. Rezaee, Esq. filed a Motion to
7 Withdraw as counsel of record, which was currently on calendar for January 10, 2011, although
8 the hearing was recently vacated as an Order granting his Motion to Withdraw was signed and filed
9 December 23, 2010, without a hearing or a filed Request for Entry of Order. Mr. Rezaee never
10 filed Petitioner's 16.2 Financial Disclosure Form signed on August 15, 2010 and provided to his
11 office, and never filed other documents while he was still counsel for Petitioner. Petitioner did
12 receive a responsive email January 3, 2011, by Mr. Rezaee's secretary notifying Petitioner of the
13 new hearing date for the 16.2 Conference (which was now scheduled for the following Monday,
14 January 10, 2011), the time of this hearing was not known. Therefore, Petitioner contacted the
15 Law Clerk who notified Petitioner of the hearing time of 10:30 a.m. In sum, Petitioner was never
16 properly noticed of the new hearing date and time.

17 Petitioner then attempted to file an Emergency Motion to Proceed in Forma Pauperis,
18 Affidavit and most importantly a Peremptory Challenge, although the District Court Clerk's office
19 declined to file these documents and referred Petitioner to file all with the Nevada Supreme Court.
20 In speaking with the Clerk and Supervisor of the Supreme Court, it was determined that these
21 documents were infact to be filed with the District Court Clerk's office. The District Court Clerk
22 still declined to file such documents for Petitioner. Therefore, Petitioner attempted to e-file all to
23 ensure no further prejudice, although the Court would not allow the Peremptory Challenge or
24 Motion to be e-filed, thereby rejecting them both. Petitioner then contacted the Court and spoke
25 with the Law Clerk for the Presiding Judge in attempt at a resolution to the above circumstances,
26 who then in turn spoke with the assigned Department I and the Supreme Court. While the Law
27 Clerk informed he was awaiting a response from Supreme Court legal counsel, he later informed
28 he passed the Peremptory Challenge, and associating documents on to the assigned Department
29 I, Department I is the same very Department in which this Petitioner was challenging, thereby
30 notifying the Department of said intent. The documents still had yet to be filed by the Court at this
31 point, despite the fact this was a time sensitive situation. Further, Judge Moss - Department I said
32 she would pass the Peremptory Challenge back to the Presiding Judge for decision, although Judge
33 Moss issued an Order the very next day stating she herself made the decision to deny Petitioner's
34 Peremptory Challenge.

35 See *Doolittle v. Doolittle*, 70 Nev. 163, 262 P.2d 955 (1953) relying upon *Gammill v. Federal*
36 *Land Bank*, 129 F.2d 502, and *Haley v. Eureka County Bank* 22 P. 1098 (Nev. 1889). See
37 also *Stone v Powell*, 428 US 465, 483 n. 35, 96 Sct. 3037, 49 L. Ed. 2d 1067 (1976), whereby
38 the following was noted, "State courts, like federal courts, have a constitutional obligation to
39 safeguard personal liberties and to uphold federal law." and 28 USCS Sec. 455, and *Marshall v*

1 Jerrico Inc., 446 US 238, 242, 100 S.Ct. 1610, 64 L. Ed. 2d 182 (1980). "The neutrality
2 requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an
3 erroneous or distorted conception of the facts or the law."

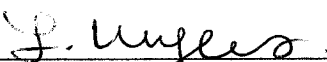
4 **Effect on Your Appeal.** If a stay is denied, how will this affect the issues you are appealing?
5 (Your answer must be provided in the space allowed.) This Order is a temporary Order, therefore
6 this Petitioner has not yet Appealed, although her Emergency Petition for Writ of Prohibition and
7 Mandamus is forthcoming.

8 **Harm to You.** What serious harm will you experience if a stay is denied? (Your answer must be
9 provided in the space allowed.) Not only would it put the minor child in direct harm's way by
10 allowing Respondent to have the 3 unsupervised days with her, but since I am challenging the
11 District Court - Family Division's Orders, Petitioner will be highly prejudiced in both this on-going
12 and her Supreme Court matter as referenced herein. It would thereby allow the District Court -
13 Family Division to proceed with its current Orders, to include allowing them to discuss and utilize
14 all documents and information from Petitioner's separate unrelated Supreme Court matter, forcing
15 Petitioner be go through yet another Psychological Evaluation despite the favorable reports and
16 prior testimony of highly qualified psychiatrists/psychologists stating she has no mental health issues
17 whatsoever, in which this Court and opposing counsel is refusing to acknowledge.

18 **Harm to Others.** What harm will the other side experience if the stay is granted? (Your answer
19 must be provided in the space allowed.) No harm whatsoever. Respondent has mental and
20 physical impairments, conviction, extensive history of drug and alcohol abuse, anger problems,
21 domestic abuse issues and his abandonment of the minor child who has a history of RSV.
22 Hopefully it will make him realize he needs to seek out the extensive medical and psychological
23 help he is in need of.

24 **Success on Appeal.** Why are you likely to win this appeal? (Your answer must be provided in
25 the space allowed.) Since this is a temporary Order, Petitioner has not yet filed an Appeal,
26 although an Emergency Petition for Writ of Prohibition and Mandamus is forthcoming. Petitioner
27 believes she will prevail as the facts, laws and rules pertaining to this matter justify same. Petitioner
28 believes this Honorable Supreme Court will act in the best interest and rights of the minor child,
rights of the Petitioner, in accordance with the laws and so as to avoid any further prejudice and
bias against Petitioner in these matters.

Dated this 21st day of January, 2011.


LISA S. MYERS
9360 West Flamingo Road, No. 110-326
Las Vegas, Nevada 89147
Petitioner In Proper Person