

IN THE SUPREME COURT OF THE STATE OF NEVADA

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AHED SAID SENJAB,

S.C. No.:

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Elizabeth A. Brown
Clerk of Supreme Court
D-30-60693-D
T-20-203688-T

Appellant,

D.C. Case No.:

vs.

MOHAMAD ALHULAIBI,

Respondent.

REPLY TO

**“APPELLANT MOHAMAD ALHULAIBI’S RESPONSE TO ORDER
TO SHOW CAUSE”**

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I. INTRODUCTION

The pending appeal concerns the jurisdiction of the district courts to issue protective orders, and adjudicate the marital rights, of non-citizens and their children physically residing in Nevada. The positions taken by Mohamad in the multiple lower court proceedings all boil down to the assertion that nothing may be done to protect such women and children, and that he is free to treat them as he wishes and to unilaterally whisk an infant child to a place where his mother will never see him again.

Appeals from the ancillary and interlocutory protective order and anti-removal order proceedings are unnecessary to this Court reaching and resolving the actual jurisdictional issue, and are not properly before this Court.

II. PROCEDURAL FACTS

We rely on the procedural history set out in the Response to Fast Track Statement already on file, which statement is incorporated by reference. Respectfully, we believe Mohamad is attempting to make the analysis much more complicated than it needs to be.

As called for in the Eighth Judicial District Court Rules, the pending TPO/EPO¹ proceedings default to being heard by the same district court before which a divorce case involving the same parties is pending.²

As detailed in the pending Fast Track appeal, Judge Ritchie made it very clear that he wished to preserve the status quo – most importantly that Ahd and the child remained protected from both further violence and the threat of

¹ “Temporary Protection Order/Extended Order of Protection.”

² See EDCR 5.519.

kidnap to Saudi Arabia³ – during the pendency of the appeal, and he specifically anticipated the possibility that the appeal would not be resolved by the time the EOP was set to expire in February, 2021, and that a further extension of that order might be required; it was only because that EOP was already in place that he found a further stay order unnecessary.⁴

³ We note that throughout his current filings, Mohamad repeats his false assertions that Saudi Arabia is or could be either the Home State or the Habitual Residence of the child; these matters are addressed in the Fast Track appeal, and are therefor not further addressed here.

⁴ Specifically, “the request for a STAY is denied without prejudice since there is an extended protection order in place and there is an expectation that it could be renewed if the appeal is still going with the Extended Order of Protection expires.” *Order Denying Relief* filed Oct. 13, 2020, at 2.

That motion to extend was filed and on February 12 the TPO Commissioner continued the evidentiary hearing until March 26, continued the EOP until that time, but indicated that in the absence of new and distinct proof of abuse, he did not think the pendency of the appeal alone could authorize further extensions of the EOP. An *Objection* was filed by the Legal Aid attorney handling the case below, but it is unclear when the hearing on it will be held.⁵

⁵ This is a matter of grave concern; if this Court does not resolve the underlying case by March 26, we will almost certainly face an attempted kidnap and further emergency actions on that date.

III. REPLY TO RESPONSE

Even in his current filings, Mohamad (at 4-5) searches for a rationalization permitting him to kidnap the child to Saudi Arabia before this Court can rule on the question of the district court's jurisdiction to prevent that very kidnaping. None of that has to be reached for the narrow purpose of this Court's Order to Show Cause, however.

TPOs, and EOPs, are not "final appealable orders" as defined in NRAP 3A. The T-case order denying Mohamad's request to have the child turned over to him to be removed to Saudi Arabia was necessarily an interlocutory matter ancillary to and part of the substantive decision regarding the jurisdiction of the district court – which is already on appeal, briefed, and

awaiting decision. It certainly was not a “post-divorce order affecting the rights of the parties growing out of final judgment.”⁶

Contrary to Mohamad’s assertion (at 5-6), the order in question is not an “injunction.” His own description indicates that what he seeks is a writ of mandamus compelling the district court to grant his motion to turn over the child, which (as discussed below) the Court certainly should not do. As briefed at length in the Fast-Track Response, Mohamad’s continuing reference to the Hague Convention are meaningless since (as he admits at 7), Saudi Arabia is not a party to the Convention.⁷

⁶ *Cf. Burton v. Burton*, 99 Nev. 698, 669 P.2d 703 (1983).

⁷ *See Ogawa v. Ogawa*, 125 Nev. 660, 221 P.3d 699 (2009).

Mohamad’s unsupported and unsupportable request to “convert” the pending appeal into a writ (at 8-10) is meaningless, for reasons both technical and of policy.

First, there is no cited case or rule under which such a “conversion” could occur. More salient is the fact that the pending appeal is already in the Fast Track program, which is explicitly intended to serve the proposition that “justice delayed is justice denied.”⁸ It makes little sense to remove the substantive case from the program designed to provide expeditious results –

⁸ *Dougan v. Gustaveson*, 108 Nev. 517, 523, 835 P.2d 795, 799 (1992), as cited in Section A(1) of the Child Custody Fast Track chapter of *The Nevada Appellate Practice Manual* (State Bar of Nevada, 2019); ADKT 381, “In the Matter of Amendments to the Nevada Rules of Appellate Procedure” (Apr. 7, 2006).

especially for the admitted purpose of frustrating this Court's ability to enter a decision protecting the spouse and child.

IV. CONCLUSION

The orders entered in the T case are not orders from which any statute or court rule permits a direct appeal. There is no procedural mechanism or cogent basis to "convert" the pending appeal into a writ. The pending appellate decision will, as a matter of course, resolve every point at issue in the orders referenced in the *Order to Show Cause*. In short, the purported appeals

from the unappealable orders should be dismissed, and the pending appeal should be resolved as quickly as reasonably possible.

Dated this 4th day of March, 2020.

Respectfully submitted,
WILLICK LAW GROUP

//s//Marshal S. Willick, Esq.

Marshal S. Willick, Esq.
Attorneys for Respondent

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WILLICK LAW GROUP and that on this 4th day of March, 2021, a document entitled *Reply to “Appellant Mohamad Alhulaibi’s Response to Order to Show Cause”* was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows, to the attorneys listed below at the address, email address, and/or facsimile number indicated below:

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