

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES LAMONT MOORE,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 43061

FILED

APR 08 2004

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

ORDER DENYING PETITION

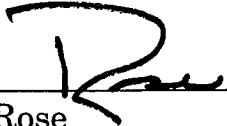
This is an original proper person petition for extraordinary relief. Petitioner asserts, without any supporting documentation, that in federal habeas corpus proceedings, the attorney general has argued that petitioner's federal claim that his sentence violates the double jeopardy clause was never fairly presented to the state courts and remains unexhausted for the purposes of federal habeas review. Accordingly, petitioner requests this court to consider and explicitly rule upon the claim.

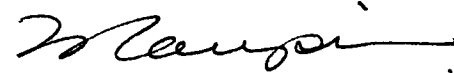
This court will not consider such post-conviction claims collaterally attacking a conviction or sentence in the first instance. Petitioner's remedy, if any, is to first file a state post-conviction petition for a writ of habeas corpus in the appropriate Nevada district court in accordance with the statutory scheme set forth in NRS chapter 34. Such a petition must demonstrate either good cause and prejudice or a fundamental miscarriage of justice sufficient to overcome any applicable

procedural bars.¹ Petitioner may then appeal any adverse decision of the district court to this court.² Accordingly, having concluded that this court's intervention by way of extraordinary writ is not warranted, we hereby

ORDER the petition DENIED.


_____, C.J.
Shearing


_____, J.
Rose


_____, J.
Maupin

cc: James Lamont Moore
Attorney General Brian Sandoval/Carson City

¹See NRS 34.726(1); NRS 34.745(4); NRS 34.800; NRS 34.810; see also Pellegini v. State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001).

²See NRS 34.575(1).