

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARENCE J. STEWART,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND, THE HONORABLE
JACKIE GLASS, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 52348

FILED

SEP 05 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK


ORDER DENYING PETITION AND MOTION FOR STAY


This original petition for a writ of mandamus or prohibition challenges a district court order denying petitioner's oral motion to sever his case from that of his codefendant. Petitioner has also filed a motion to stay the trial pending this court's resolution of the petition.

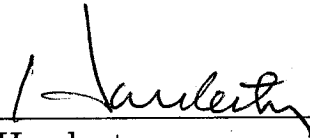
Having considered the petition on file herein, we are not satisfied that this court's intervention by way of extraordinary writ is warranted at this time. For example, the district court may yet be able to sufficiently address petitioner's concerns about the possible spillover prejudice from being tried with his codefendant based on public bias. In particular, these concerns may be addressed through the jury selection process. And we are confident the district court remains ever mindful of its "continuing duty at all stages of the trial to grant a severance if

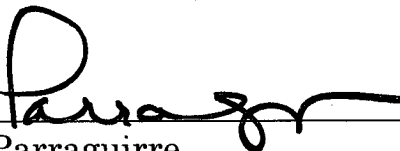
prejudice does appear”¹ and that while efficiency and expediency are relevant considerations in deciding whether to sever a joint trial, “[t]he decisive factor in any severance analysis remains prejudice to the defendant.”² Accordingly, we deny the petition³ and the motion for a stay of the district court proceedings.

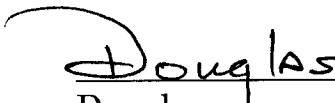
It is so ORDERED

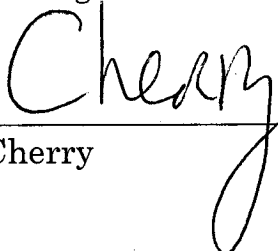

_____, C.J.
Gibbons



_____, J.
Maupin


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. Jackie Glass, District Judge
Robert G. Lucherini, Chtd.
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

¹Marshall v. State, 118 Nev. 642, 646, 56 P.3d 376, 379 (2002) (quoting Neill v. State, 827 P.2d 884, 890 (Okla. Crim. App. 1992)).

²Id.

³See NRAP 21(b).