

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEAN DAVID COTTLE,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
VALERIE ADAIR, DISTRICT JUDGE,
Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 56610

FILED

NOV 05 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of mandamus or prohibition. Petitioner Sean David Cottle is awaiting trial for unlawful use of excrement or bodily fluids and one count of battery on an officer. Cottle seeks a writ of mandamus or prohibition directing the district court to vacate its ruling denying Cottle's motion to apply the 2009 amendments to NRS 212.189 to his prosecution.

We conclude that extraordinary relief is not appropriate. In State v. District Court (Pullin), 124 Nev. 564, 188 P.3d 1079 (2008), this court determined that ameliorative amendments to criminal statutes would not apply retroactively unless the Legislature indicated its intent otherwise. Id. at 570, 188 P.3d at 1083. In Pullin, we concluded that because the Legislature had failed to indicate its intent to apply ameliorative amendments to NRS 193.165 retroactively, Nevada law required the application of the penalty in effect at the time Pullin committed his crime. Id. at 567, 188 P.3d at 1081. Similarly, the 2009

amendments to NRS 212.189 do not indicate that they were meant to apply retroactively. See 2009 Nev. Stat., ch. 52, § 1, at 150-52. Therefore, the district court properly denied Cottle's motion, and our intervention is not warranted See NRS 34.160; NRS 34.320; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Accordingly, we

ORDER the petition DENIED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Valerie Adair, District Judge
Attorney General/Carson City
Clark County District Attorney
Clark County Public Defender
Eighth District Court Clerk