

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRUCE WOLOSKY,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
DOUG SMITH, DISTRICT JUDGE,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 57402

FILED

JAN 03 2011

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

ORDER DENYING PETITION

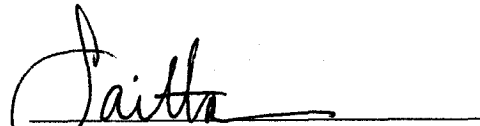
This original petition for a writ of mandamus challenges the district court's denial of petitioner Bruce Wolosky's motion to be released on his own recognizance. We previously granted a stay and directed the State to file an answer. Wolosky v. Dist. Ct., Docket No. 57402 (Order Directing Answer, December 27, 2010). On January 3, 2011, the State filed an Emergency Motion to Reconsider Order Granting Stay and Directing Answer. Because the State's motion addresses the substantive issues raised by petitioner, we elect to treat the State's motion as an answer.

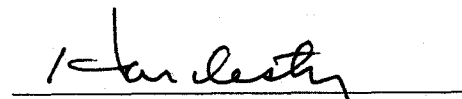
Having considered the documentation presented to this court, we conclude that our intervention by way of extraordinary writ is not warranted. Wolosky claims that he is entitled to release because he has been held on a fugitive warrant in excess of 90 days. However, because Wolosky was re-arrested under warrant of the Governor within 90 days of initial arrest, there was no basis upon which to release him from custody.

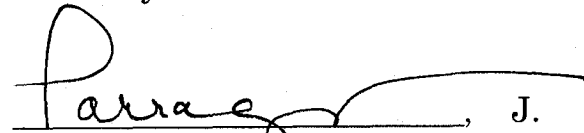
See NRS 179.207-.211; Schumm v. Nelson, 659 P.2d 1389, 1390-91 (Colo. 1983).

Therefore, we

ORDER the petition DENIED.¹


Saitta J.


Hardesty J.


Parraguirre J.

cc: Hon. Doug Smith, District Judge
The Almase Law Group LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹We lift the stay imposed by this court on December 27, 2010.