

IN THE SUPREME COURT OF THE STATE OF NEVADA

GORDON JOSEPH LAWES,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
VALORIE VEGA, DISTRICT JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 59030

FILED

DEC 27 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Tracie K. Lindeman*  
DEPUTY CLERK

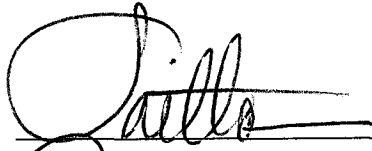
ORDER DENYING PETITION

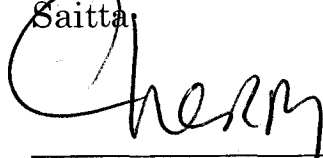
This original petition for a writ of mandamus or prohibition challenges an order of the district court denying a motion to strike. See NRS 34.160; NRS 34.320. Petitioner Gordon Joseph Lawes faces retrial on two counts of sexual assault following reversal and remand by this court. He seeks to strike one theory of sexual assault from the amended information on retrial. Lawes claims that this court held in his prior appeal that there was insufficient evidence to support the against-the-victim's-will theory of sexual assault, and therefore the State cannot proceed on that theory upon retrial without violating double jeopardy. By contrast, the district court read our prior decision as discussing sufficiency of the evidence only in the context of cumulative error, and therefore found that the decision does not preclude retrial on all theories alleged in the charging document.


The district court correctly interpreted this court's prior order of reversal and remand. In that order, the discussion regarding

sufficiency of the evidence upon which Lawes relies was limited to the issue of cumulative error; the order specifically concluded elsewhere that Lawes' argument that the state failed to produce sufficient evidence to sustain his conviction was without merit. Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, C. J.  
Saitta

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Gibbons

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