

IN THE SUPREME COURT OF THE STATE OF NEVADA

EARL BARBEAU,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JESSIE ELIZABETH WALSH,
DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 63397

FILED

JUL 02 2013

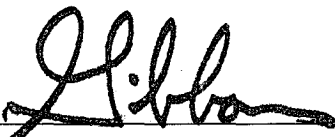
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus challenges factual findings made by the district court in ruling on petitioner's motion to suppress evidence in which petitioner argued that he was subject to an illegal detention and therefore all evidence subsequently seized, including his statements to the police, must be suppressed. After conducting an evidentiary hearing, the district court denied in part and granted in part petitioner's motion, concluding that statements petitioner made to the police after he expressed his desire to leave the crime scene were inadmissible but that all evidence seized prior to that time was admissible. We have considered the petition and the documents submitted, and we are not satisfied that this court's intervention is warranted because petitioner has an adequate remedy by way of an appeal should he be convicted. *See* NRS 34.170; *Williams v. Eighth Judicial Dist. Court*, 127 Nev. ___, ___, 262 P.3d 360, 365 (2011) (observing that "generally this court will not consider writ petitions challenging

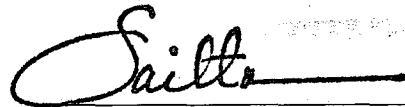
evidentiary rulings, as those rulings are discretionary” and defendant may appeal if convicted); *Hardin v. Griffin*, 98 Nev. 302, 304, 646 P.2d 1216, 1217 (1982) (observing that challenges to admissibility of evidence on constitutional grounds “should be made in a motion to suppress evidence, and review of the district court’s ruling may be sought following trial and conviction”). Accordingly, we deny the petition. See NRAP 21(b).

It is so ORDERED.¹



Gibbons J.


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Jessie Elizabeth Walsh, District Judge
Oronoz & Ericsson
Brown Law Office
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The petition includes a request for a stay of the trial scheduled for July 15, 2013. Because such a request must be made in separate motion that complies with NRAP 27 and explains why a stay is warranted, petitioner’s request is improper. Nevertheless, considering our decision, we deny petitioner’s request as moot.