

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC BRUCE ALPERT,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
DOUGLAS W. HERNDON, DISTRICT
JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 66524

FILED

OCT 15 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Maline*
DEPUTY CLERK

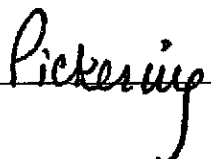
ORDER DENYING PETITION

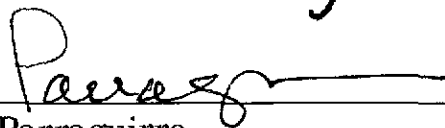
This original petition for a writ of mandamus challenges a district court order denying a motion to dismiss an information.¹ Petitioner argues that the district court manifestly abused its discretion by refusing to dismiss criminal charges involving trespass, burglary, and fraud where he asserted his right to the subject properties based on adverse possession. Whether petitioner's defense of adverse possession negates any of the elements of the offenses charged is a factual matter appropriate for trial. Accordingly, we decline to exercise our discretion to consider this claim. As to his contention that insufficient evidence supports the probable cause finding, our review of a probable cause

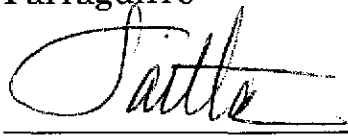
¹In the alternative, petitioner seeks a writ of prohibition. Because the district court had jurisdiction to consider petitioner's motion to dismiss the information, a writ of prohibition is inappropriate. See NRS 34.320.

determination through an original writ petition is disfavored, *see Kussman v. Eighth Judicial District Ct.*, 96 Nev. 544, 545-46, 612 P.2d 679, 680 (1980), and petitioner has not demonstrated that his challenge to the probable cause determination fits the exceptions we have made for purely legal issues, *see Ostman v. Eighth Judicial Dist. Court*, 107 Nev. 563, 565, 816 P.2d 458, 459-60 (1991); *State v. Babayan*, 106 Nev. 155, 174, 787 P.2d 805, 819-20 (1990). Having concluded that our intervention is not warranted, we

ORDER the petition DENIED.²


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

²In his petition, petitioner requests this court to take judicial notice of other judicial proceedings where he “has been successful, in obtaining Quiet Title, to more than one residential homes (sic) in Clark County, Nevada, under similar circumstances.” However, petitioner did not file a separate motion as required by NRAP 27(a) explaining the grounds and legal support for the requested relief. Moreover, considering our order declining to intervene in this matter, judicial notice of any other proceeding was unnecessary.

cc: Hon. Douglas Herndon, District Judge
Hofland & Tomsheck
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk