

IN THE SUPREME COURT OF THE STATE OF NEVADA

AARON JAMES CVITONAVICH,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
DOUGLAS SMITH, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 69244

FILED

DEC 16 2015

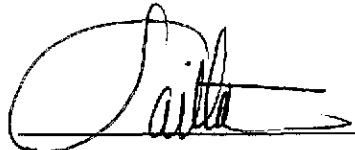
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus challenges a district order denying a pretrial petition for a writ of habeas corpus in which petitioner challenged the State's separation of the factual bases alleged in one count of lewdness with a child under the age of 14 into two lewdness counts. Petitioner argues that the district court arbitrarily and capriciously denied his pretrial habeas petition because the State presented no evidence of a break in time between the alleged acts to permit multiple convictions for lewdness. Our review of a pretrial probable cause determination through an original writ petition is disfavored, *see Kussman v. District Court*, 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).¹

It is so ORDERED.


_____, J.
Saitta


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Douglas Smith, District Judge
Legal Resource Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹Petitioner argues that the district applied the incorrect legal standard in reviewing his pretrial habeas petition. Because he has not shown that the district court manifestly abused its discretion in this regard, no relief is warranted. See *State v. Eighth Judicial Dist. Court (Armstrong)*, 127 Nev., Adv. Op. 84, 267 P.3d 777, 780 (2011) (defining manifest abuse and arbitrary or capricious exercise of discretion).