

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROGER RAPHAEL BROWN,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE,
Respondent.

No. 71684

FILED

DEC 16 2016

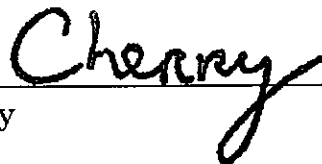
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK


ORDER DENYING PETITION

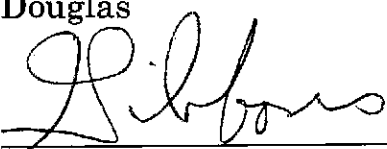
This petition for a writ of mandamus or prohibition seeks petitioner's release from custody on pending criminal charges on a number of grounds including that the State did not present sufficient evidence at the preliminary hearing to establish probable cause, the bad act evidence was improperly admitted at the preliminary hearing, and that the justice of the peace who conducted the preliminary hearing was biased against petitioner. We conclude that our intervention by writ of mandamus or prohibition is not warranted for three reasons. First, because a probable-cause determination may be challenged in the district court by filing a pretrial petition for a writ of habeas corpus, *see* NRS 34.700, petitioner has an adequate remedy at law to challenge the probable-cause determination that militates against relief through mandamus or prohibition, *see* NRS 34.170; NRS 34.330. Second, some of the issues involve factual questions that this court is not in a position to resolve and therefore must be presented to the district court in the first instance. *See Round Hill Gen. Imp. Dist. v. Newman*, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981) ("[A]n appellate court is not an appropriate forum in which to resolve disputed

questions of fact.”). Third, petitioner has not asserted that the respondent district court has refused a clear legal duty to act or has manifestly abused or arbitrarily and capriciously exercised its discretion such that mandamus would be an available remedy, *see id.* at 603-04, 637 P.2d at 536 (explaining when mandamus will issue), or that the respondent district court lacks jurisdiction over the pending criminal charges such that prohibition would be an available remedy, *see* NRS 34.320. For these reasons, we

ORDER the petition DENIED.


_____, J.
Cherry


_____, J.
Douglas


_____, J.
Gibbons

cc: Hon. Egan Walker, District Judge
Roger Raphael Brown
Troy Jordan
Attorney General/Carson City
Washoe District Court Clerk