

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANNY TAYLOR A/K/A DANNY CALLAWAY,

No. 36516

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK, AND THE
HONORABLE MARK W. GIBBONS,
DISTRICT JUDGE,

FILED

MAR 27 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

Respondents,

and

THE STATE OF NEVADA,

Real Party in Interest.

ORDER DENYING PETITION

This original petition for a writ of mandamus challenges an order of the district court declining to dismiss a criminal indictment pending against petitioner for lack of jurisdiction. Petitioner also asserts that the State failed to establish probable cause and the corpus delicti during the grand jury proceedings.

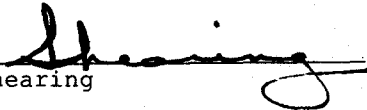
Petitioner is charged with open murder and robbery in the 1991 death of his girlfriend. The State is seeking the death penalty. Petitioner contends that the State failed to present sufficient evidence to the grand jury to establish that the Nevada courts have jurisdiction over the case. In response to an order of this court, the State has filed an answer and authorities against issuance of the writ.

Having considered the petition and answer, we are not persuaded that this court's intervention by way of

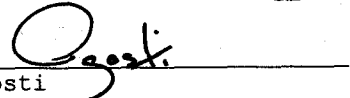
extraordinary writ is warranted at this time.¹ Specifically, we note that "a pretrial motion to dismiss for lack of jurisdiction . . . should be granted only after very careful consideration. The moving party must carry the burden by showing that no inference could reasonably be drawn placing the site of the crime within the State."² We are not persuaded at this point in the proceeding that petitioner has met this burden.³

Accordingly, we

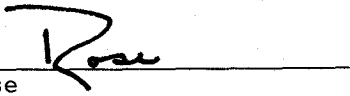
ORDER the petition DENIED.


Shearing

J.


Agosti

J.


Rose

J.

cc: Hon. Mark W. Gibbons, District Judge
Attorney General
Clark County District Attorney
Special Public Defender
Clark County Clerk

¹See NRS 34.160; NRS 34.170.

²State v. Reldan, 400 A.2d 138, 140 (N.J. Super. Ct. Law Div. 1979) (quoting State v. McDowney, 231 A.2d 359, 361 (N.J. 1967)); see also State v. Cutnose, 532 P.2d 896, 898 (N.M. Ct. App. 1974) (placing burden upon defendant to demonstrate a lack of jurisdiction in the district court at pretrial stage).

³In addition, we decline to consider petitioner's arguments to the extent they challenge the finding of probable cause and the corpus delicti. See Kussman v. District Court, 96 Nev. 544, 612 P.2d 679 (1980).