

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES SHARKEY,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 74684

FILED

FEB 13 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

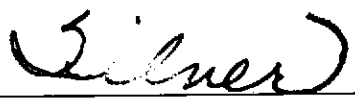
ORDER DENYING PETITION


This original petition for a writ of mandamus seeks an order directing the district court to dismiss the charges against James Sharkey and discharge him from custody. Sharkey also seeks an order directing the district court to dismiss the jury and conduct a bench trial. Alternatively, Sharkey seeks an order directing the district attorney to refile the charge against him as a misdemeanor charge.

We have considered the petition, and we are not satisfied this court's intervention by way of extraordinary writ is warranted at this time. See NRS 34.160; *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) ("Petitioner[] carr[ies] the burden of demonstrating that extraordinary relief is warranted."). To the extent Sharkey asserts the State cannot meet its burden to establish sufficient prior convictions such that he should not be charged with felony third offense battery constituting domestic violence, Sharkey has a plain, speedy, and adequate remedy

available to him because he can raise his claim on appeal from the judgment of conviction in the event he is convicted. See NRS 34.170; NRS 177.015(3). Accordingly, without deciding upon the merits of any claims raised, we

ORDER the petition DENIED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Michael Villani, District Judge
James Sharkey
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk