

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEANDRE GATHRITE,  
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,

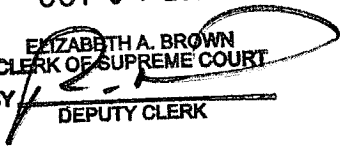
and

THE STATE OF NEVADA,  
Real Party in Interest.

No. 77081

**FILED**

OCT 04 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER DENYING PETITION FOR WRIT OF PROHIBITION*

This original, emergency petition for a writ of prohibition challenges a district court ruling setting an evidentiary hearing on petitioner's pre-trial petition for a writ of habeas corpus and motion to dismiss for prosecutorial misconduct.

Having considered the petition and supporting documents, we are not persuaded that our extraordinary and discretionary intervention is warranted at this time. NRAP 21(b); NRS 34.320; *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). In particular, the district court has not yet ruled on petitioner's petition and motion, and petitioner has not demonstrated that our intervention before the scheduled evidentiary hearing is necessary to prevent irreparable harm.

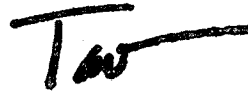
Accordingly, we decline to exercise our discretion to intervene at this time,  
and we

ORDER the petition DENIED.<sup>1</sup>



Silver

C.J.



Tao

J.



Gibbons

J.

cc: Hon. Douglas W. Herndon, District Judge  
Lobo Law PLLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>In light of this order, we deny as moot petitioner's emergency motion  
for stay.