

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL HANNAH,  
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. 77738

FILED

JAN 17 2008


ELIZABETH A. FITZGERALD  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

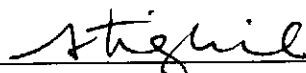
*ORDER DENYING PETITION*

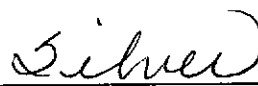
This pro se petition for a writ of certiorari or review asks this court to release petitioner from custody and dismiss the charges against him with prejudice on the ground that the prosecution goaded his counsel into requesting a mistrial such that a retrial would violate the Double Jeopardy Clause of the Nevada Constitution. We decline to exercise our discretion to entertain the petition for two reasons. *See Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (recognizing that the issuance of an extraordinary writ is discretionary). First, the issue raised in the petition falls outside the scope of a writ of certiorari, which is limited to instances where the lower court has exceeded its jurisdiction or the district court has addressed the constitutionality of a statute or ordinance on appeal from a final judgment in justice or municipal court. NRS 34.020(2), (3). Second, the double-jeopardy issue presents questions of fact that must be addressed by 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) (“As we have repeatedly noted, an appellate court is not an appropriate forum in which to resolve disputed questions of fact. When disputed factual

issues are critical in demonstrating the propriety of a writ of mandamus, the writ should be sought in the district court, with appeal from an adverse judgment to this court." (citations omitted)). Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Stiglich

  
\_\_\_\_\_, J.  
Silver

cc: Michael Hannah  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk