

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MANUEL CAMACHO,
Appellant,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
RONALD J. ISRAEL, DISTRICT
JUDGE,

Respondents,
and

THE STATE OF NEVADA,
Real Party in Interest.

No. 79567-COA

FILED

OCT 22 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION

In this original petition for a writ of prohibition or, in the alternative, a writ of mandamus, Manuel Camacho seeks an order dismissing the indictment currently pending against him. Camacho argues that the indictment is insufficient because: (1) the only place his or his co-defendant's name appears is on the first page of the indictment, otherwise the counts all refer to just "Defendant(s)," "one Defendant," or "the other Defendant"; (2) none of the counts adequately state a crime; (3) none of the counts set forth the manner and means by which the acts were committed or facts sufficient to put him on notice of what he should be prepared to defend against; (4) there is insufficient information contained in the indictment for him to plead double jeopardy; and (5) he has not been adequately placed on notice of what he should be prepared to defend against because all of the counts allege the defendants acted as a principal, aider or

abettor, or in conspiracy with each other, but none of the counts identify the specific acts each defendant is alleged to have committed.

A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust, or station, NRS 34.160, or to control a manifest abuse or arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. NRS 34.320. Neither writ will issue if petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330. Petitions for extraordinary writs are addressed to the sound discretion of the court, *see State ex rel. Dep't of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983), and the “[p]etitioner[] carr[ies] the burden of demonstrating that extraordinary relief is warranted,” *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

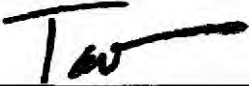
Camacho states that he filed a pretrial petition for a writ of habeas corpus in the district court in which he challenged the indictment on the same grounds as alleged in the instant petition. He further states the district court ultimately denied the petition. Camacho, however, has not provided this court with any documentation that establishes that he did in fact challenge the indictment in the district court in the first instance and the district court denied such a petition. Camacho does not provide any cogent argument challenging the district’s denial of his petition or allege this court’s intervention is necessary in order to compel the district court to perform an act that is required by law or to control a manifest abuse or

arbitrary or capricious exercise of discretion. Nor has Camacho alleged the district court is acting in excess of its jurisdiction. Accordingly, we conclude Camacho has failed to demonstrate this court's intervention by way of a petition for a writ of mandamus or prohibition is warranted.

As an independent basis for denying relief, we conclude the indictment is legally sufficient because it provides Camacho with a sufficient statement of the acts constituting the alleged offenses and with adequate notice of the theories of guilt upon which the State will rely at his trial. See NRS 173.075 ("The indictment . . . must be a plain, concise and definite written statement of the essential facts constituting the offense charged."); *Barren v. State*, 99 Nev. 661, 668, 669 P.2d 725, 729 (1983); see also *Lane v. Torvinen*, 97 Nev. 121, 122, 624 P.2d 1385, 1386 (1981) (holding that an indictment that includes the defendants' names in an introductory paragraph "gives adequate notice that each and every defendant is included in each count of the indictment"). Therefore, we

ORDER the petition DENIED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Ronald J. Israel, District Judge
William B. Terry, Chartered
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk