

IN THE SUPREME COURT OF THE STATE OF NEVADA

IVAN ABARCA,
Petitioner,
vs.
THE FOURTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF ELKO,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 83427

FILED

SEP 09 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of mandamus/prohibition seeking to compel the district court to resentence petitioner to concurrent as opposed to consecutive sentences.

Having considered the petition, we are not persuaded that our extraordinary intervention is warranted. See NRS 34.170; NRS 34.320; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (observing that “the issuance of a writ of mandamus or prohibition is purely discretionary with this court”). Problematically, petitioner has not provided this court with exhibits or other documentation that would support his claims for relief. See NRAP 21(a)(4) (providing the petitioner shall submit an appendix containing all documents “essential to understand the matters set forth in the petition”).

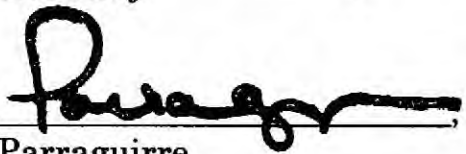
Moreover, to the extent petitioner asserts ineffective assistance of counsel claims, we note that such claims are appropriately raised in a postconviction petition for a writ of habeas corpus filed in the district court in the first instance so that factual and legal issues are fully developed,

giving this court an adequate record to review. See NRAP 22 (“An application for an original writ of habeas corpus should be made to the appropriate district court. If an application is made to the district court and denied, the proper remedy is by appeal from the district court’s order denying the writ.”); *Round Hill Gen. Imp. Dist. v. Newman*, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981) (recognizing that “an appellate court is not an appropriate forum in which to resolve disputed questions of fact”); *State v. Cty. of Douglas*, 90 Nev. 272, 276-77, 524 P.2d 1271, 1274 (1974) (noting that “this court prefers that such an application [for writ relief] be addressed to the discretion of the appropriate district court” in the first instance), *abrogated on other grounds by Attorney Gen. v. Gypsum Res.*, 129 Nev. 23, 33-34, 294 P.3d 404, 410-11 (2013).

Therefore, without deciding the merits of the claims raised, we decline to exercise our original jurisdiction in this matter, see NRAP 21(b). Accordingly, we

ORDER the petition DENIED.


Hardesty, C.J.


Parraguirre, J.


Stiglich, J.

cc: Ivan Abarca
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk