

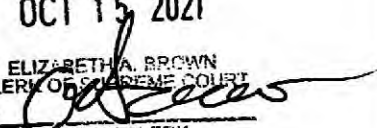
IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL LEROY MCGUINNESS,
Petitioner,
vs.
THE ELEVENTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
PERSHING; AND THE HONORABLE
JIM C. SHIRLEY, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 82959

FILED

OCT 15 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

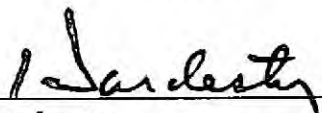
ORDER DENYING PETITION

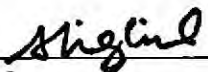
This petition for a writ of prohibition challenges a district court order placing petitioner on court services while out of custody pretrial and directing that he submit to alcohol and drug testing.¹ We are not satisfied that this court's intervention by way of a writ of prohibition is warranted because the district court had jurisdiction over the criminal case and the defendant and therefore a writ of prohibition is not available. *See* NRS 34.320 (providing that a writ of prohibition "arrests the proceedings of any tribunal . . . exercising judicial functions, when such proceedings are without or in excess of the [tribunal's] jurisdiction"); *Goicoechea v. Fourth Judicial Dist. Court*, 96 Nev. 287, 289, 607 P.2d 1140, 1141 (1980) (holding

¹To the extent petitioner challenges an administrative order directing pretrial testing of all out-of-custody defendants before arraignment and sentencing, we decline to consider such a challenge because petitioner was not tested pursuant to the administrative order.

that a writ of prohibition “will not issue if the court sought to be restrained had jurisdiction to hear and determine the matter under consideration”); see also *Poulos v. Eighth Judicial Dist. Court*, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982) (recognizing that it is within the discretion of this court to determine if a petition will be considered). Accordingly, we

ORDER the petition DENIED.²


_____, C.J.
Hardesty


_____, J.
Stiglich


_____, Sr.J.
Gibbons

cc: Hon. Jim C. Shirley, District Judge
Pershing County Public Defender
Pershing County District Attorney
Clerk of the Court/Court Administrator

²The Honorable Mark Gibbons, Senior Justice, participated in the decision of this matter under a general order of assignment.