

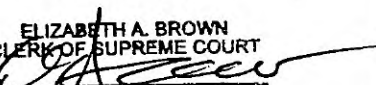
IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD JACOB IGLEHART,  
Petitioner,  
vs.  
THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
JESSICA K. PETERSON, DISTRICT  
JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 88470

FILED

JAN 03 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DENYING PETITION*

This petition for a writ of mandamus or prohibition challenges a district court's decision to allow re-prosecution following a mistrial. Petitioner Edward Iglehart contends that the district court abused its discretion in finding that there was manifest necessity to declare a mistrial based on a juror's misconduct during deliberations.

Iglehart was tried on charges of sexual offenses against a minor. On the second day of deliberations, the jury foreperson, Juror Number 8, delivered a note to the district court stating the jury was hung. Juror Number 8 told the court marshal that the jury had arrived at an 11-1 vote, 11 for acquittal and 1 for a guilty verdict, with Juror Number 8 as the lone holdout. The district court informed the parties of this note and brought Juror Number 8 to the courtroom to discuss the deliberation process. Juror Number 8 explained to the court that all members of the jury had participated in the deliberation process, but that the votes were stuck at 11-

1. The court instructed Juror Number 8 to ask the jury to continue deliberations.

A short while later, the court received two more notes. The first was from Juror Number 1 reading:

The foreperson stated [yesterday] that he looked up the Defendant online and there were multiple public records regarding child pornography charges. He then stated he was joking, but wanted to be thrown off the case. He also stated he hoped the Defendant would burn in hell as he walked to hand the Marshal the first verdict.

The second note was from Juror Number 8 reading: "We cannot come to a conclusion. Any more time would not be helpful."

At this time, the court indicated its concern that the jury had been tainted by Juror Number 8's comments, noting that there was accurate information in the note that had been disseminated to the entire jury. The State requested a mistrial, but Iglehart requested an evidentiary hearing to question each juror individually to determine the extent of the misconduct and its effect on the jurors. The court took a recess to conduct legal research on the matter and a short time later informed the parties that a third note had been received from another juror, which essentially echoed that of Juror Number 1.

Iglehart again requested an evidentiary hearing to canvass the jury to determine the extent of the misconduct and jury bias, and asked the court to replace Juror Number 8 with an alternate juror. Iglehart specifically opposed a mistrial and offered to waive any issue of juror bias or misconduct on appeal. After hearing Iglehart's and the State's arguments about Juror Number 8's misconduct, the court sua sponte declared a mistrial, finding that the juror misconduct—independently

researching Iglehart and informing other jurors that Iglehart was a convicted sex offender—was so rampant as to infect the entire process.

A new trial was scheduled and Iglehart filed a motion to dismiss re-prosecution of the case as barred by double jeopardy. The district court denied the motion, finding that the mistrial was based on manifest necessity and thus double jeopardy principles did not bar re-prosecution. Iglehart now seeks relief from this court by filing a petition for a writ of prohibition or mandamus.

*We elect to entertain the writ petition*

This court has the discretion to consider a petition for a writ of mandamus. *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). “A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control a manifest abuse of discretion.” NRS 34.160; *Gonzalez v. Eighth Jud. Dist. Ct.*, 129 Nev. 215, 217, 298 P.3d 448, 449 (2013). However, this court will not entertain such a petition if there is an adequate remedy in the ordinary course of law. NRS 34.170.

Because a retrial subjects the accused to being placed in jeopardy twice, petitioner’s ability to raise a double jeopardy argument on appeal from a final judgment following a retrial is not an adequate remedy. *Gonzalez.*, 129 Nev. at 218, 298 P.3d at 450. We therefore elect to entertain the petition for a writ of mandamus and conclude that the district court did not manifestly abuse its discretion when it denied Iglehart’s motion to dismiss based upon its conclusion that the mistrial was a manifest necessity.<sup>1</sup>

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<sup>1</sup>Iglehart alternatively seeks a writ of prohibition, but we consider his petition under the mandamus standard because he does not claim the district court lacked jurisdiction over his motion to dismiss.

*We deny the petition on its merits*

The Fifth Amendment of the United States Constitution, made applicable to the states through the Fourteenth Amendment's Due Process Clause, guarantees the right to be free from double jeopardy. *Oregon v. Kennedy*, 456 U.S. 667, 671 (1982). "Where a mistrial that has not been requested by the defendant prevents the return of a verdict, re-prosecution violates the Double Jeopardy Clause unless the defendant has either consented to the mistrial or the court determines that a mistrial was a manifest necessity." *Granada-Ruiz v. Eighth Jud. Dist. Ct.*, 134 Nev. 474, 477-78, 422 P.3d 732, 736 (2018). "A sua sponte declaration of a mistrial does not create a bar to re-prosecution on the same charges when there is manifest necessity to declare a mistrial." *Id.* at 480, 422 P.3d at 738 (citing *United States v. Perez*, 22 U.S. 579, 580 (1824)).

Importantly, special respect is given to the district court's finding of manifest necessity based on jury bias. *Glover v. Eighth Jud. Dist. Ct.*, 125 Nev. 691, 709-10, 220 P.3d 684, 697 (2009). In reviewing the manifest necessity finding, this court focuses on the procedures used by the trial court in making its determination and may uphold the determination of manifest necessity even if other trial judges would have proceeded with the trial. *United States v. Chapman*, 524 F.3d 1073, 1082 (9th Cir. 2008). The goal of the reviewing court is to ensure the trial court exercised "sound discretion" in declaring a mistrial, i.e., that the trial court acted "responsibly and deliberately" rather than "irrationally or irresponsibly." *Glover*, 125 Nev. at 710, 220 P.3d at 697 (internal quotation marks omitted). We will conclude that the trial court acted within its sound discretion if it: "(1) allowed both parties to voice their opinions on the necessity of a mistrial, (2) considered alternatives to a mistrial, (3) deliberately arrived at the decision to declare a mistrial, and (4) declared the mistrial based on

evidence in the record.” *Granada-Ruiz*, 134 Nev. at 481, 422 P.3d at 738. We review of each of these factors in turn and conclude that the trial court exercised sound discretion in declaring a mistrial.

*Views of the parties*

The district court repeatedly allowed the parties to voice their opinions on the appropriateness of the mistrial. The record contains 28 pages of trial transcripts dedicated entirely to the appropriateness of a mistrial and the parties’ opinions on the matter.

*Alternatives to mistrial*

The record demonstrates that the district court considered alternatives to a mistrial. *See Granada-Ruiz*, 134 Nev. at 481, 422 P.3d at 738. The court engaged in discussions with Iglehart about seating the two alternate jurors and found this to be an impossibility due to at least three jurors being tainted. The court further considered Iglehart’s request to canvass the entire jury about the misconduct, but ultimately determined that such a canvass could lead to further bias and that communicating with the jury in this fashion after deliberations had begun would be inappropriate. The court also considered, but rejected, Iglehart’s offer to waive the issue on appeal, finding that it was not a reasonable alternative because the State might have also been prejudiced.

*Deliberateness*

The record indicates that the district court was deliberate in determining that a mistrial was necessary. The district court heard arguments by the parties and considered alternatives before determining that a mistrial was necessary. *See Granada-Ruiz*, 134 Nev. at 481, 422 P.3d at 739 (“The primary indicator of behavior that is not deliberate is where the mistrial is declared suddenly, without a hearing, and without giving thought to alternatives.”). Though the district court did not canvass the

offending juror and the two jurors that provided notes, as requested by Iglehart, the court engaged in considerable discussion with the two parties regarding the misconduct, the bias, and alternatives, and performed independent legal research. Thus, the district court was deliberate in its decision to declare a mistrial. *See id.* at 481, 422 P.3d at 739 (“Implicit in this factor is whether the district court applied the appropriate legal standards in arriving at its decision.”).

*Evidence in the record*

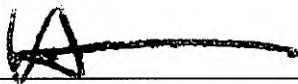
The district court’s decision to order a mistrial was based on evidence in the record—specifically, the notes received from the foreperson and two other jurors. These notes indicated that the foreperson had conducted outside research and informed at least two other jurors that Iglehart had committed additional sex offenses. Based on the nature of the information shared by the foreperson, the district court found that this rampant misconduct infected the deliberations and that it was not reasonable to utilize the two alternate jurors to rectify the misconduct. Further, the court explained its ruling that “if [the court] were to question each juror one by one [the court] would just be adding additional taint into the situation.”

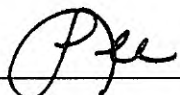
Iglehart argues that the court was required to canvass each juror. The district court here, unlike the court in *Granada-Ruiz*, did not canvass the offending juror nor the two jurors who reported the misconduct. However, the present case is distinguishable from *Granada-Ruiz* in that the misconduct here is facially prejudicial extrinsic evidence, whereas in *Granada-Ruiz*, the offending juror conducted outside research regarding the legal definition of premeditation. *See Granada-Ruiz*, 134 Nev. at 482 n.5, 422 P.3d at 739 n.5 (stating that the district court “must determine whether the improper research had an effect on the jury” but is not required


to “canvass each of the nonoffending jurors to determine whether each, individually, was effected by the improper research”).

Employing the factors outlined in *Granada-Ruiz*, we conclude it was not an abuse of discretion for the district court to find manifest necessity to declare a mistrial based on the juror misconduct. The district court allowed both parties to voice their opinions, considered alternatives to a mistrial, deliberately arrived at its decision, and utilized evidence in the record to reach its conclusion. Because the district court did not manifestly abuse its discretion in finding manifest necessity to sua sponte declare a mistrial, a second prosecution is not prohibited by double jeopardy. Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Herndon

  
\_\_\_\_\_, J.  
Lee

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Jessica K. Peterson, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk