

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT MICHAEL JARAB,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; AND THE HONORABLE
KATHLEEN SIGURDSON, DISTRICT
JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 91291

FILED

JAN 15 2026

ELIZABETH A. BROWN
CLERK SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus or prohibition challenges a district court order in a criminal matter permitting the State to retry petitioner Robert Michael Jarab. Jarab requests that this court direct the district court to dismiss the case as violating the prohibition against double jeopardy.

Having considered Jarab's petition, we conclude that our extraordinary and discretionary intervention is not warranted. See NRS 34.160; NRS 34.320; *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (observing that the party seeking writ relief bears the burden of showing such relief is warranted); *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991) (recognizing that writ relief is an extraordinary remedy and that this court has sole discretion in determining whether to entertain a writ petition).

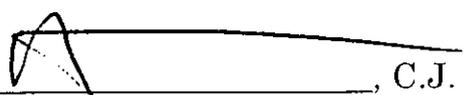
In particular, Jarab has not shown the district court abused the broad discretion it exercises in declaring a mistrial. *Illinois v. Somerville*, 410 U.S. 458, 462 (1973) (recognizing a district court's broad discretion in determining whether the unique circumstances a trial presents merit a mistrial). When a mistrial is declared at the State's request, a court must determine whether manifest necessity required a mistrial and, if so, whether the prosecutor was responsible for the circumstances demanding a mistrial. *Thomas v. Eighth Jud. Dist. Ct.*, 133 Nev. 468, 472, 402 P.3d 619, 624 (2017). The district court found that the trial was complex, involving a murder prosecution and competing expert witnesses; that the current prosecutor would not be available to complete the trial; that a continuance would be unreasonable in light of the preparation time that a new prosecutor would require and the fading of jurors' memories over that period; that the State did not seek a mistrial to gain an unfair advantage; and that the circumstances compelling the mistrial were not the State's fault. The court thus found manifest necessity for a mistrial. The record supports that these findings are based on substantial evidence and not clearly erroneous. *See id.* at 471, 402 P.3d at 624 (stating standard for review of district court factual findings).

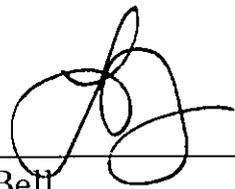
Contrary to Jarab's contention, a one-week continuance was not a reasonable alternative. In light of the death of the then-prosecutor's father on the second day of trial and that prosecutor's imminent resignation from the district attorney's office, a one-week delay would not have allowed that prosecutor to complete the trial given the evidence the State had yet to present and the time required to present the defense case and closing arguments. And as the district court found, one week would not provide enough time for a new prosecutor to prepare. The prosecutor's imminent

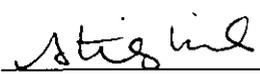
resignation from the district attorney's office presented a unique obstacle to a continuance here. The situation may be seen as akin to where "a prosecutor becomes seriously ill during trial such that he requires a lengthy absence, and no other prosecutor is able to step in to resume the trial within a reasonable period." *State v. Anderson*, 988 A.2d 276, 286 (Conn. 2010). In such cases, the general view is that the trial court permissibly exercises its discretion in declaring a mistrial. *Id.* (collecting cases).

Jarab thus has not shown that the district court manifestly abused or arbitrarily or capriciously exercised its discretion to warrant mandamus relief from the court's discretionary action. *See Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 354, 536 (1981); *see also Randolph v. State*, 117 Nev. 970, 981, 36 P.3d 424, 431 (2001) (declining to upset a district court decision on a motion for a mistrial "absent a clear showing of abuse"). Lastly, though the petition purports to seek prohibition relief, Jarab does not argue that the district court acted in excess of its jurisdiction, and the district court here had jurisdiction over Jarab and the criminal case. *See Goicoechea v. Fourth Jud. Dist. Ct.*, 96 Nev. 287, 289, 607 P.2d 1140, 1141 (1980) (providing 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"). Accordingly, we

ORDER the petition DENIED.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Kathleen A. Sigurdson, District Judge
Ristenpart Law
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk