



IN THE SUPREME COURT OF THE STATE OF NEVADA

RAYMOND BUSTILLOS,
Petitioner,
vs.
THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
DAVID A. HARDY, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 91497

ORDER DENYING PETITION

This original petition for a writ of mandamus challenges a district court order denying a motion to dismiss based on double jeopardy. Petitioner Raymond Bustillos was charged with one count of possession of a credit card without the cardholder's consent, a felony, and one count of possession of stolen property, a misdemeanor. Bustillos entered a plea to the misdemeanor offense in justice court and then moved to have the felony offense dismissed in district court because it was based on the same act as the misdemeanor offense. He asks this court to direct the district court to grant his motion and dismiss the felony charge as barred by double jeopardy. We conclude that our extraordinary and discretionary intervention is not warranted. See NRS 34.160; *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 denying Bustillos’s motion to dismiss, the district court applied the *Blockburger*¹ test and found that NRS 205.690(2) (possession of a credit card without the cardholder’s consent) and NRS 205.275 (possession of stolen property) proscribe separate offenses and thus double jeopardy does not bar the prosecution of the felony offense. The district court further determined that the offenses are not mutually exclusive and thus do not preclude multiple convictions and punishments for a single act. These determinations by the district court are not clearly erroneous, and Bustillos has not identified any legal authority clearly requiring the district court to dismiss the felony charge. *See Walker v. Second Jud. Dist. Ct.*, 136 Nev. 678, 680, 476 P.3d 1194, 1196 (2020) (stating that a “petitioner’s burden to demonstrate a clear legal right to a particular course of action by [the lower] court is substantial”); *see also id.* at 680-81, 476 P.3d at 1197 (“[M]andamus is available only where the law is overridden or misapplied, or when the judgment exercised is manifestly unreasonable or the result of partiality, prejudice, bias or ill will.” (internal quotations omitted)). Therefore, we

ORDER the petition DENIED.



Herndon, C.J.



Bell, J.



Cadish, J.

¹*Blockburger v. United States*, 284 U.S. 299 (1932).



cc: Hon. David A. Hardy, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

