



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DIMITRI JONES,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK
AND THE HONORABLE ERIC
JOHNSON, DISTRICT JUDGE,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 92466-COA

ORDER DENYING PETITION

This is an original petition for a writ of mandamus challenging a district court order denying a pretrial petition for a writ of habeas corpus, in which petitioner Dimitri Jones sought to dismiss a charge of first-degree kidnapping with the use of a deadly weapon.¹ 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, NRS 34.160, or to control a manifest abuse or arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). A writ of mandamus will not issue if the petitioner has a plain, speedy, and adequate

¹To the extent Jones alternatively seeks a writ of prohibition, he provides no authority or argument for such relief. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (explaining that this court need not consider issues that are not cogently argued or that lack the support of relevant authority).

remedy in the ordinary course of law. NRS 34.170. The decision to entertain a petition for extraordinary writ relief is within our sole discretion, and the petitioner has the burden of demonstrating that such relief is warranted. *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Jones argues the district court manifestly abused its discretion in denying his pretrial habeas petition because there was insufficient evidence before the grand jury to support a probable cause determination as to the use of a deadly weapon in the kidnapping charge. We generally decline to review pretrial challenges to probable cause determinations through an original writ petition, *see Kussman v. Eighth Jud. Dist. Ct.*, 96 Nev. 544, 546, 612 P.2d 679, 680 (1980), and Jones has not demonstrated that this challenge fits the exception for purely legal issues, *see Ostman v. Eighth Jud. Dist. Ct.*, 107 Nev. 563, 565, 816 P.2d 458, 459-60 (1991). Rather, the question of whether Jones used a deadly weapon during his alleged commission of the kidnapping involves a factual dispute that this court is not positioned to resolve. *See Round Hill*, 97 Nev. at 604, 637 P.2d at 536 (recognizing that “an appellate court is not an appropriate forum in which to resolve disputed questions of fact” and determining that when there are factual issues presented, this court will not exercise its discretion to entertain a petition for extraordinary relief even though “important public interests are involved”). Accordingly, we decline to exercise our discretion to address this claim.

Jones also argues the district court manifestly abused its discretion in denying his pretrial habeas petition because the indictment is constitutionally and statutorily deficient in that the State failed to allege a factual basis for the kidnapping charge. Jones contends the deficient indictment does not provide him sufficient notice to defend against the

kidnapping charge because it allows the State to change its theory of prosecution.²

Both the United States and Nevada Constitutions require an indictment to allege a criminal offense in a manner that is sufficient to put the defendant on notice of the nature of the offense charged and the essential facts constituting the offense “in order to permit adequate preparation of a defense.” *Jennings v. State*, 116 Nev. 488, 490, 998 P.2d 557, 559 (2000); see NRS 173.075(1) (“The indictment or the information must be a plain, concise and definite written statement of the essential facts constituting the offense charged.”); see also *Simpson v. Eighth Jud. Dist. Ct.*, 88 Nev. 654, 656, 503 P.2d 1225, 1227 (1972) (providing that an indictment must describe “the manner or means by which the offense allegedly was committed”). The indictment “may charge the offense in the language of the statute except where . . . the statute defining the offense does not state the essential elements.” *Larsen v. State*, 86 Nev. 451, 455, 470 P.2d 417, 419 (1970); cf. *Sheriff v. Levinson*, 95 Nev. 436, 437, 596 P.2d 232, 233 (1979) (providing that a charging document “which alleges the commission of the offense *solely* in the conclusory language of the statute is insufficient” (emphasis added)). The indictment may also allege the defendant committed the offense “by one or more specified means.” NRS

²As to the kidnapping charge, the indictment alleges:

[Jones] did on or about November 11, 2024, willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away [the victim], a human being, with the intent to hold or detain [the victim] against her will, and without her consent, for the purpose of committing robbery, with use of a deadly weapon: to wit: a knife.

173.075(2). The sufficiency of an indictment is determined by practical and not technical standards. *See Laney v. State*, 86 Nev. 173, 178, 466 P.2d 666, 669 (1970).

Here, the indictment alleges Jones committed, by one or more alternative means, first-degree kidnapping with the use of a deadly weapon by containing verbs that parallel the language of the first-degree kidnapping statute, NRS 200.310(1).³ The indictment contains the exact date Jones allegedly committed the kidnapping, the name of the victim, the State's theory of Jones' intent to hold or detain the victim for the purpose of committing robbery with the use of a deadly weapon, and the deadly weapon Jones allegedly used in the commission of the offense—a knife. With regard to the only other count contained in the indictment, charging robbery with the use of

³NRS 200.310(1) provides:

A person who willfully seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away a person by any means whatsoever with the intent to hold or detain, or who holds or detains, the person for ransom, or reward, or for the purpose of committing sexual assault, extortion or robbery upon or from the person, or for the purpose of killing the person or inflicting substantial bodily harm upon the person, or to exact from relatives, friends, or any other person any money or valuable thing for the return or disposition of the kidnapped person, and a person who leads, takes, entices, or carries away or detains any minor with the intent to keep, imprison, or confine the minor from his or her parents, guardians, or any other person having lawful custody of the minor, or with the intent to hold the minor to unlawful service, or perpetrate upon the person of the minor any unlawful act is guilty of kidnapping in the first degree which is a category A felony.

a deadly weapon, the indictment alleges that Jones took a Bentley Continental vehicle from the same victim by force or violence or fear of injury on the same date as the kidnapping charge and using the same type of deadly weapon. Considering the entirety of the indictment, the language contained therein affords Jones, as a practical matter, sufficient notice of the nature and essential facts constituting the kidnapping charge such that he may adequately defend against the charge. *See Ahearn v. State*, No. 66123, 2016 WL 1109110, at *1 n.1 (Nev. Mar. 18, 2016) (Order of Affirmance) (providing “that the test is whether adequate notice of the charges has been provided, as a practical matter” considering the entirety of the indictment); *Cf. Gazlay v. State*, No. 66105, 2016 WL 2848905, at *2 (Nev. May 12, 2016) (Order of Affirmance) (concluding the appellant failed to show plain error regarding his argument that the charging document did not provide notice of the conduct constituting kidnapping where the document “alleged an exact date of commission, a victim, the State’s theory of [the appellant’s] intent to hold or detain with the purpose of killing or inflicting substantial bodily harm, and the use of a firearm”). Therefore, we conclude the district court did not manifestly abuse its discretion in denying this claim. Accordingly, we

ORDER the petition DENIED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Eric Johnson, District Judge
Clark County District Attorney
Clark County Public Defender
Eighth District Court Clerk