



IN THE SUPREME COURT OF THE STATE OF NEVADA

LAZAVION PAYNE,

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. 92859

ORDER DENYING PETITION

This is an original petition for a writ of mandamus or prohibition challenging a district court order denying a pretrial petition for a writ of habeas corpus.

Petitioner Lazavion Payne argues that the district court was required under the law of the case doctrine to grant the habeas petition and dismiss the indictment. Having considered Payne's petition and supporting documents, we conclude that writ relief 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).

A grand jury indicted Payne and several codefendants on multiple felonies, including attempted murder and conspiracy to commit murder. The district court granted Payne's habeas petition and dismissed the charges against him for lack of probable cause, finding that the evidence before the grand jury did not demonstrate Payne committed the crimes. The State subsequently reconvened grand jury proceedings against Payne individually, presented additional evidence, and obtained a new indictment. Payne again filed a habeas petition, but the district court denied the petition, finding that probable cause supported that Payne committed the felonies under an aiding and abetting theory.

Payne contends that because the district court previously granted a habeas petition based on a lack of probable cause, the district court was barred by the law of the case doctrine from revisiting that decision and finding probable cause supported the charges in the new indictment. Payne further complains that the State should have challenged the dismissal of the initial indictment rather than reconvening the grand jury and obtaining a new indictment in an effort to circumvent the appellate process. However, Payne concedes that it was proper for the prosecution to seek reindictment for the same offenses. *See Sheriff, Clark Cnty. v. Walsh*, 107 Nev. 842, 844-45, 822 P.2d 109, 110 (1991) (noting that the prosecution may "commenc[e] new proceedings for the same offense unless the subsequent prosecution was untimely or the original dismissal was based upon the prosecutor's willful failure to comply with important procedural rules"). Furthermore, we discern no error in the district court's denial of the habeas petition where the State presented additional evidence at the second grand jury proceedings to establish probable cause for the charges in the indictment. *Cf. State v. Devries*, 140 Nev., Adv. Op. 82, 561 P.3d 42, 46 (2024) (precluding the district court from granting

a pretrial habeas petition where “the State meets its burden to show probable cause that the defendant committed the charged crime”). Accordingly, we

ORDER the petition DENIED.



Bell, J.



Stiglich, J.



Cadish, J.

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