

IN THE SUPREME COURT OF THE STATE OF NEVADA

RODNEY PERKINS,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
DOUGLAS SMITH, DISTRICT JUDGE,
Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 65032

FILED

MAR 12 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of certiorari, prohibition, or mandamus challenges a district court order denying a pretrial petition for a writ of habeas corpus in which petitioner argued that a criminal information should be dismissed on double jeopardy grounds. From the limited documents before us, it appears that the police investigated petitioner and a codefendant for theft and possession of stolen motorcycles and motorcycle parts. Petitioner was charged with possession of stolen property and he represents that he pleaded no contest to misdemeanor disorderly conduct on November 22, 2011. He further represents that approximately one month later he was again charged with possession of stolen property stemming from the same police investigation and that the charge was dismissed on double jeopardy grounds. Appellant is currently

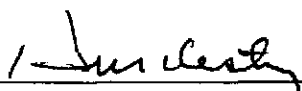
charged with insurance fraud, attempted theft, and owning or operating premises where illegally obtained vehicle is altered or disassembled. Petitioner argues that the State is barred from prosecuting him on double jeopardy grounds because these charges stem from the same police investigation that resulted in his misdemeanor disorderly conduct conviction.

The Double Jeopardy Clause protects against a second prosecution for the same offense after acquittal, a second prosecution for the same offense after conviction, and multiple punishments for the same offense. *North Carolina v. Pearce*, 395 U.S. 711, 717 (1969), *overruled on other grounds by Alabama v. Smith*, 490 U.S. 794 (1989); *Jackson v. State*, 128 Nev. ___, ___, 291 P.3d 1274, 1278 (2012). “[W]here the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not.” *Blockburger v. United States*, 284 U.S. 299, 304 (1932); *Jackson*, 128 Nev. at ___, 291 P.3d at 1278 (applying *Blockburger*).

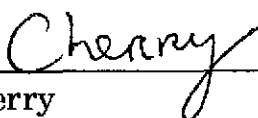
While the documents submitted suggest that the current charges arose from the same police investigation that resulted in petitioner’s misdemeanor disorderly conduct conviction, they appear to focus on appellant’s involvement in defrauding an insurance company by assisting the codefendant in reporting the codefendant’s motorcycle as stolen to obtain an insurance settlement of \$25,000. Assuming that the

police investigation in this instance may be considered a single transaction for double jeopardy purposes, we conclude that multiple convictions may be sought in this instance. Under *Blockburger*, the elements of insurance fraud, see NRS 686A.2815(3), attempted theft, see NRS 193.330(1)(a)(3); NRS 205.0832(1), and owning or operating premises where illegally obtained vehicle is altered or disassembled, see NRS 205.2745, each require proof of an additional fact that appellant's prior charge of possession of stolen property does not, see NRS 205.275(1). Moreover, our review of this matter is significantly hampered by appellant's failure to include a transcript or written order indicating any factual findings made by the district court or the basis upon which it denied his pretrial habeas petition. See NRAP 21(a)(4) ("The appendix shall include a copy of any order or opinion, parts of the record before the respondent judge, . . . or any other original document that may be essential to understand the matters set forth in the petition."). Because of this omission and considering the documents before us, we conclude that petitioner has not demonstrated that extraordinary relief is warranted. Accordingly, we

ORDER the petition DENIED.

, J.
Hardesty

, J.
Douglas

, J.
Cherry

cc: Hon. Douglas Smith, District Judge
Mueller Hinds & Associates
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk