

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY ROBINSON,
Petitioner,

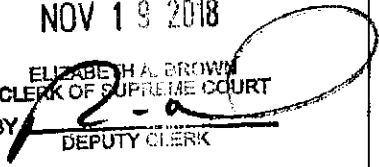
vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
VALERIE ADAIR, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 76454-COA

FILED

NOV 19 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus challenges a district court order denying a pretrial petition for a writ of habeas corpus.

Anthony Robinson previously challenged his superseding indictment in a pretrial habeas petition. The district court found that the State had presented slight or marginal evidence to hold Robinson for trial on the charges of murder with the use of a deadly weapon and ownership or possession of a firearm by a prohibited person. And the district court denied the petition.

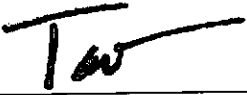
Robinson now challenges the denial of his pretrial habeas petition. He asserts the State failed to present sufficient evidence to the grand jury to establish probable cause to believe he committed the offenses of murder with the use of a deadly weapon and ownership or possession of a firearm by a prohibited person. And he argues his “[m]ere presence at a location where an illegal act is occurring is insufficient to support a probable cause determination.”


A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust, or station, NRS 34.160, or to control an arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Mandamus is an extraordinary remedy, and the decision to entertain a petition for this writ lies within our discretion. *Hickey v. Eighth Judicial Dist. Court*, 105 Nev. 729, 731, 782 P.2d 1336, 1338 (1989).

Robinson claims the district court abused its discretion by denying his petition because insufficient evidence was presented to establish probable cause. Our review of a probable cause determination through original writ petitions is disfavored, see *Kussman v. Eighth Judicial Dist. Court*, 96 Nev. 544, 545-46, 612 P.2d 679, 680 (1980), and Robinson has not demonstrated his challenge to the probable cause determination “involves only a purely legal issue,” *Rugamas v. Eighth Judicial Dist. Court*, 129 Nev. 424, 431, 305 P.3d 887, 892 (2013) (quoting *Ostman v. Eighth Judicial Dist. Court*, 107 Nev. 563, 565, 816 P.2d 458, 460 (1991)). Therefore, we decline to exercise our original jurisdiction, and we

ORDER the petition DENIED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Valerie Adair, District Judge
Wright Stanish & Winckler
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk