

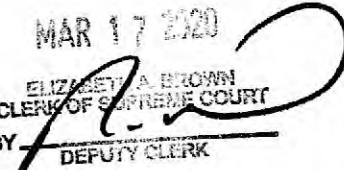
IN THE SUPREME COURT OF THE STATE OF NEVADA

MONDIER KHAIRA; AND DAVID
RESQUER,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK;
THE HONORABLE LINDA MARIE
BELL; AND THE HONORABLE
MICHAEL VILLANI, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 80598

FILED

MAR 17 2020

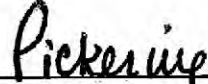
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of prohibition challenges a district court order denying a motion to dismiss an indictment. We have considered the petition on file herein, and we are not satisfied that this court's intervention by way of extraordinary writ is warranted for two reasons. First, a writ of prohibition is not available because the district court was acting within its jurisdiction when it considered the motion to dismiss. *See Goicoechea v. Fourth Judicial Dist. Court*, 96 Nev. 287, 289, 607 P.2d 1140, 1141 (1980) ("A writ of prohibition . . . will not issue if the court sought to be restrained had jurisdiction to hear and determine the matter under consideration."). Second, NRS 178.562(2) permits the State to pursue an indictment after dismissal of a case in justice court. *See NRS 34.320; see also Warren v. Eighth Judicial Dist. Court*, 134 Nev. 649, 652, 427 P.3d 1033, 1036 (2018) (recognizing that the State may appeal the dismissal of a criminal complaint or pursue the statutory options set forth

in NRS 178.562(2)). Nothing in *Gathrite v. Eighth Judicial District Court*, 135 Nev., Op. 54, 451 P.3d 891 (2019), questioned the State's ability to seek a grand jury indictment after voluntarily dismissing a criminal complaint pursuant to NRS 174.085 or after discharge of a person accused upon a complaint pursuant to NRS 178.562(2). Accordingly, we

ORDER the petition DENIED.


_____, C.J.
Pickering


_____, J.
Gibbons


_____, J.
Silver

cc: Hon. Linda Marie Bell, Chief Judge
Hon. Michael Villani, District Judge
Chesnoff & Schonfeld
The Law Office of John V. Spilotro, Esq., P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk