

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SHAWN LYNN GLOVER, JR.
Petitioner,
vs.
SHERIFF DOUG GILLESPIE,
Respondent.

Case No. 2:11-CV-00011-JCM-(RJJ)

ORDER

Petitioner has submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (#1). The court has reviewed it pursuant to 28 U.S.C. § 2243. Petitioner alleges that a state court’s declaration of mistrial in a criminal case and setting the case for retrial violates the Double Jeopardy Clause of the Fifth Amendment. That claim is an exception to the general rule that this court should abstain from intervening in pending state criminal proceedings. Mannes v. Gillespie, 967 F.2d 1310, 1312-13 (9th Cir. 1992). The court will serve the petition (#1) upon respondent for a response.

Also before the court is the motion for appointment of counsel by the federal public defender (#3). The court grants this motion.

IT IS THEREFORE ORDERED that the clerk of court shall serve a copy of this order, the petition (#1), and accompanying papers upon respondent by having the United States Marshal make personal service upon Sheriff Douglas C. Gillespie, at the Las Vegas Metropolitan Police Department, 3141 Sunrise Avenue, Las Vegas, Nevada 89101, or wherever he otherwise may be found by the Marshal.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED, pursuant to 28 U.S.C. § 2243, that, subject to extension for good cause shown, respondent shall have three (3) business days from the date of service of this order within which to answer, or otherwise respond to, the petition (#1) and show cause why relief should not be granted.

IT IS FURTHER ORDERED that the motion for appointment of counsel by the federal public defender (#3) is **GRANTED**. The federal public defender is appointed to represent petitioner.

DATED: March 4, 2011.



JAMES C. MAHAN
United States District Judge