

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2021 ND 41

State of North Dakota,

Plaintiff and Appellee

v.

Jose Enrique Amaro Molina,

Defendant and Appellant

No. 20200247

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Thomas J. Schneider, Judge.

AFFIRMED.

Per Curiam.

Joshua A. Amundson, Assistant State's Attorney, Bismarck, ND, for plaintiff and appellee.

Benjamin C. Pulkrabek, Mandan, ND, for defendant and appellant.

State v. Molina
No. 20200247

Per Curiam.

[¶1] Jose Enrique Amaro Molina appealed from a district court order denying his writ of prohibition. Amaro Molina was charged with possession with intent to deliver marijuana and aggravated assault with a dangerous weapon, domestic violence. At the preliminary hearing, the State offered testimony of an officer who was not previously involved in Amaro Molina's case. The court determined it could not make a finding of probable cause and dismissed the charges after the testifying officer was unable to identify Amaro Molina. The State subsequently refiled the charges against Amaro Molina. Amaro Molina petitioned for a writ of prohibition seeking to prevent the State from pursuing prosecution against him. The court denied the petition determining the State followed proper procedure when issuing a new complaint.

[¶2] On appeal, Amaro Molina argued he was entitled to relief under a writ of prohibition as the State did not have good cause to refile charges following the adverse ruling at the preliminary hearing. We conclude the district court did not abuse its discretion denying the writ of prohibition. We summarily affirm under N.D.R.App.P. 35.1(a)(4).

[¶3] Jon J. Jensen, C.J.
Gerald W. VandeWalle
Daniel J. Crothers
Lisa Fair McEvers
Jerod E. Tufte