

at law.

{¶ 3} Upon review, we conclude that Boles has not demonstrated his entitlement to a writ of prohibition. “A writ of prohibition is an extraordinary writ that is not routinely or easily granted. * * * In order to be entitled to a writ of prohibition, a relator must establish that (1) the court or officers against whom it is sought are about to exercise judicial power, (2) the exercise of such power is unauthorized by law, and (3) denial of the writ will cause injury to relator for which no other adequate remedy in the ordinary course of law exists.” *State ex rel. White v. Junkin*, 80 Ohio St.3d 335, 336, 1997-Ohio-340 (citations omitted).

{¶ 4} The first requirement is satisfied here because Judge McCracken is set to try Boles on a pending criminal charge. Boles’ petition fails, however, because he cannot satisfy either of the remaining two requirements. Assuming, arguendo, that Boles’ indictment should be amended to remove a force specification and that trying him for rape will violate double-jeopardy principles, these issues do not deprive the trial court of its judicial power to proceed with the scheduled trial.

{¶ 5} The trial court has original jurisdiction over criminal offenses, including the pending rape charge. R.C. §2931.03. Boles “has demonstrated no defect of a jurisdictional nature and no unauthorized usurpation of judicial power” by the trial court. *DuBose v. Court of Common Pleas of Trumbull County* (1980), 64 Ohio St.2d 169, 171. Moreover, “[d]ouble-jeopardy claims are not cognizable in prohibition.” *State ex rel. Cruzado v. Zaleski*, 111 Ohio St.3d 353, 359, 2006-Ohio-5795, ¶31; see also *Junkin*, 80 Ohio St.3d at 338. Boles’ arguments regarding double jeopardy and the

failure to amend his indictment to delete a force specification are capable of being raised in a direct appeal at the conclusion of proceedings in the trial court. Therefore, he has an adequate remedy in the ordinary course of law. Id.

{¶ 6} For the foregoing reasons, Boles' petition for a writ of prohibition is hereby denied and the respondent's motion to dismiss is hereby granted.¹ This matter is DISMISSED.

IT IS SO ORDERED.

WILLIAM H. WOLFF, JR., Presiding Judge

JAMES A. BROGAN, Judge

MIKE FAIN, Judge

Copies provided by the court to:

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Kirsten A. Brandt
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In light of our conclusion that Boles has not satisfied the requirements for obtaining a writ of prohibition, we need not address the respondent's arguments contained in his June 1, 2007 motion to dismiss about the inadequacy of Boles' affidavit of indigence or his failure to bring the present action in the name of the State.

P.O. Box 972
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Hon. William McCracken, Visiting Judge
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