

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRENDAN ROBERT COENEN,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
DOUGLAS SMITH, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 55312

FILED

MAR 11 2010

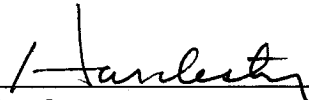
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

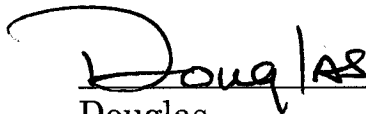
ORDER DENYING PETITION

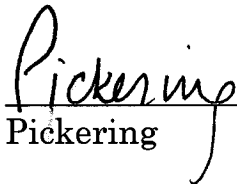
This original petition for a writ of mandamus or prohibition challenges a district court order denying a pretrial petition for a writ of habeas corpus in which petitioner contended that insufficient evidence was presented at a preliminary hearing to support probable cause on a robbery charge. Based on our review of petitioner's submissions, this case bears a striking resemblance to Martinez v. State, 114 Nev. 746, 961 P.2d 752 (1998), and if the evidence presented at the preliminary hearing comprises all of the evidence the State has against petitioner, the State may very well be unable to prove petitioner's guilt as to robbery beyond a reasonable doubt at trial. However, the State's burden at the preliminary hearing stage of the proceedings is to produce slight or marginal evidence to support probable cause. See Dettloff v. State, 120 Nev. 588, 595, 97 P.3d 586, 590-91 (2004). And petitioner's burden in seeking extraordinary relief is extremely high in that he must demonstrate that respondent manifestly abused its discretion or acted arbitrarily or capriciously. See

NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Given these standards, we decline to intervene in this matter by way of extraordinary writ. Accordingly, we deny the petition. See NRAP 21(b).

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Doug Smith, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk