

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES LEE FORREST,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE, AND THE HONORABLE
JANET J. BERRY, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 55424

FILED

MAR 11 2010


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


ORDER DENYING PETITION

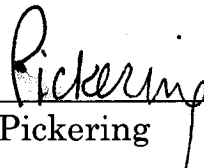
This original petition for a writ of certiorari challenges NRS 484.383 (implied consent) as unconstitutional because the warrantless, nonconsensual draw of the petitioner's blood taken to establish a per se violation of driving under the influence of marijuana, see NRS 484.379, violated the Fourth Amendment prohibition against unreasonable search and seizure. Petitioner argues that NRS 484.383 is unconstitutional because the statute does not allow a driver to refuse to submit to chemical testing. 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. See McCharles v. State, Dep't. of Mtr. Vehicles, 99 Nev. 831, 833, 673 P.2d 488, 489 (1983) ("Under Nevada's implied consent law, the privilege of operating a vehicle in Nevada is conditioned upon the driver's consent to submit to a chemical sobriety test."); see also State v. Smith, 134 S.W.3d 35, 39 (Mo. Ct. App. 2003) ("The central feature of the Implied Consent Law is that persons who avail themselves of the privilege of

driving on the state's public streets and highways are deemed to have consented to a chemical analysis of their blood alcohol level or drug content."). Accordingly, we deny the petition. See NRAP 21(b).

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Janet J. Berry, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk