

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
LI LU,  
Respondent.

No. 55636

**FILED**

MAY 07 2010

TRACHEK/LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting respondent Li Lu's pretrial petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Lu was charged by criminal indictment with conspiracy to commit murder, burglary while in the possession of a deadly weapon, and murder with the use of a deadly weapon. In the proceedings below, the State argued that the grand jury was presented with sufficient evidence to support the probable cause determination. The State now appeals from the district court's dismissal of the counts.

We defer to the district court's determination of factual sufficiency when reviewing pretrial orders on appeal. See Sheriff v. Provenza, 97 Nev. 346, 630 P.2d 265 (1981). Here, the district court found that the State failed to present the requisite slight or marginal evidence necessary to support the counts as charged. See Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980) (probable cause to support a criminal charge "may be based on slight, even 'marginal' evidence, because it does not involve a determination of the guilt or innocence of an accused" (citations omitted)); see also NRS 172.155(1). We agree and conclude that

the district court did not err by dismissing the charges against Lu and granting her pretrial petition for a writ of habeas corpus. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

cc: Hon. Michael Villani, District Judge  
Clark County District Attorney  
Law Office of John J. Momot  
Eighth District Court Clerk