

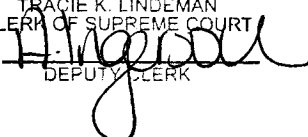
IN THE SUPREME COURT OF THE STATE OF NEVADA

DIEGO NOCHEBUENA,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JAMES M. BIXLER, DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 61044

FILED

JUL 25 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

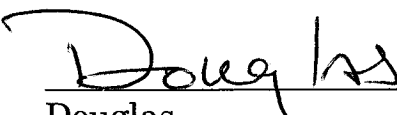
ORDER DENYING PETITION


This original petition for a writ of mandamus or, in the alternative, writ of prohibition, challenges the district court's decision denying a pretrial petition for a writ of habeas corpus. Petitioner Diego Nochebuena claims that the State failed to present sufficient evidence to bind him over for trial. Nochebuena seeks a writ of mandamus or prohibition directing the district court to grant his pretrial petition for a writ of habeas corpus. See NRS 34.160; NRS 34.320; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981).

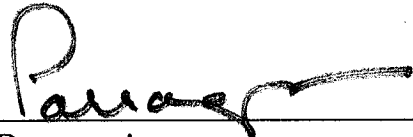
We conclude that our intervention is not warranted. We have stated that this court's review of a pretrial probable cause determination through an original writ petition is disfavored. See Kussman v. District Court, 96 Nev. 544, 546, 612 P.2d 679, 680 (1980). Further, the challenge to the probable cause determination in this case does not fit the exceptions we have made for pure legal issues. See State v. Babayan, 106 Nev. 155, 787 P.2d 805 (1990). And in any event, our review of the preliminary

hearing transcript provided with the petition reveals slight or marginal evidence as required for a finding of probable cause. Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980) (“The finding of probable cause may be based on slight, even ‘marginal’ evidence.” (quoting Perkins v. Sheriff, 92 Nev. 180, 181, 547 P.2d 312, 312 (1976))); see also Sheriff v. Burcham, 124 Nev. 1247, 1258, 198 P.3d 326, 333 (2008) (explaining that the State need only present sufficient evidence to the grand jury “to support a reasonable inference’ that the defendant committed the crime charged” (quoting Hodes, 96 Nev. at 186, 606 P.2d at 180)). Accordingly, we

ORDER the petition DENIED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. James M. Bixler, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk