

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARCO OSBORNE,  
Petitioner,  
vs.  
THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE; AND THE HONORABLE  
SCOTT N. FREEMAN, DISTRICT  
JUDGE,  
Respondents,  
and  
THE STATE OF NEVADA,  
Real Party in Interest.

No. 63646

**FILED**

JAN 14 2015

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

*ORDER DISMISSING PETITION*

This is an original petition for a writ of certiorari seeking review of the constitutionality of NRS 484C.160(7), Nevada's implied consent statute.

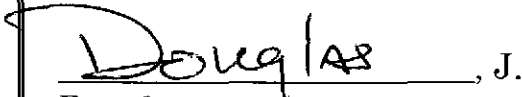
Petitioner Marco Osborne was tried and convicted in the justice court of driving under the influence of a prohibited substance. At trial, Osborne challenged the constitutionality of NRS 484C.160(7), which allows officers to use force to obtain a blood sample from a person suspected of driving under the influence of alcohol and/or a prohibited substance. The justice court determined that the statute was not unconstitutional. On appeal, the district court affirmed the justice court's decision.

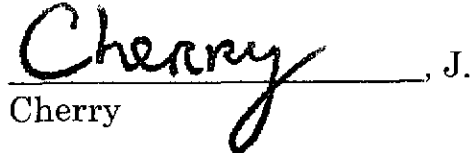
"A writ of certiorari is an extraordinary remedy and the decision to entertain a petition for a writ of certiorari lies within the discretion of this court." *Zamarripa v. First Judicial Dist. Court*, 103 Nev.

638, 640, 747 P.2d 1386, 1387 (1987); *see also State ex rel. Schumacher v. First Judicial Dist. Court*, 77 Nev. 408, 411-12, 365 P.2d 646, 648 (1961) (“Although containing words of a mandatory nature with respect to when the writ shall be issued, NRS 34.020 does not curtail the right of this court to refuse to exercise its constitutional power when the necessity therefor does not appear.”). We recently considered the constitutionality of the warrantless, nonconsensual search provided for in NRS 484C.160(7) and held it unconstitutional. *See Byars v. State*, 130 Nev. \_\_\_, \_\_\_, 336 P.3d 939, 946 (2014). As we have determined the constitutionality of NRS 484C.160(7), we conclude that writ review is unwarranted. Accordingly, we

ORDER the petition DISMISSED.

  
Parraguirre, J.

  
Douglas, J.

  
Cherry, J.

cc: Hon. Scott N. Freeman, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk