

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
FRANCIS BAYANI GAON A/K/A JUN
FRANCIS GAON,
Respondent.

No. 65452

FILED

DEC 10 2014

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

ORDER OF REVERSAL

This is an appeal from a district court order granting a motion to suppress evidence obtained from a warrantless blood draw. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

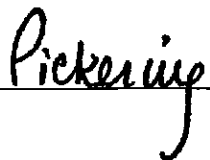
The State contends that the district court erred by granting the motion to suppress. In granting the motion, the district court found that respondent did not consent to the blood draw, the warrantless blood draw was improper, and, although there was “no indication that the officer’s belief was anything less than good faith,” the good-faith exception to the exclusionary rule did not apply.

Because this court recently held in *Byars v. State*, 130 Nev. ___, 336 P.3d 939 (2014), that the warrantless, nonconsensual search provided for in NRS 484C.160(7) is unconstitutional but that the good-faith exception to the exclusionary rule applies, we ordered respondent to show cause why we should not reverse the district court’s order and remand pursuant to *Byars*. In response, respondent asserts that the parties in *Byars* did not adequately address the good-faith exception and requests this court to reconsider the holding in *Byars* that the good-faith exception applies and allow oral argument on this issue. We decline to

reconsider *Byars*. Because the district court found that there was "no indication that the officer's belief was anything less than good faith," we conclude the good-faith exception to the exclusionary rule applies and therefore the blood draw evidence should not have been suppressed. Accordingly, we

ORDER the judgment of the district court REVERSED.


_____, C.J.
Gibbons


_____, J.
Pickering


_____, J.
Saitta

cc: Hon. James M. Bixler, District Judge
Attorney General/Carson City
Clark County District Attorney
Law Offices of John G. Watkins
Eighth District Court Clerk