

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THOMAS M. BOLICH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67236

FILED

APR 15 2015

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court dismissing a post-conviction petition requesting a genetic marker analysis.¹ Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.


In his petition filed on August 7, 2014, Bolich requested that his blood sample that was drawn after he was arrested on suspicion of driving under the influence should be tested for his DNA because the lab technician who did the analysis on the sample was later fired for tampering with blood samples. Bolich asserted that if the blood sample tested did not match his DNA, there would be no reason or justification for charging him with driving under the influence of alcohol.

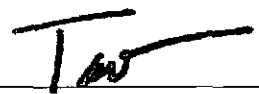
We conclude that the district court did not err in dismissing the petition because Bolich failed to demonstrate that a reasonable possibility existed that he would not have been prosecuted if a genetic marker analysis demonstrated that the blood tested was not his. NRS

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

176.09183(1)(a), (5)(b). Bolich was pulled over for driving with suspended license plates. The officer who conducted the stop noted that Bolich smelled of alcohol, had watery eyes, and had an unsteady gait. Although the record does not indicate that Bolich disclosed how many drinks he had consumed, the type of alcohol consumed, or the time period when the alcohol was consumed, the record does demonstrate that Bolich told the officer that he had been drinking that night. Bolich also failed several field sobriety tests. This would have been sufficient evidence to prosecute Bolich of driving under the influence of intoxicating liquor. See NRS 484C.110(1)(a); *Long v. State*, 109 Nev. 523, 528, 853 P.2d 112, 115 (1993). Further, we note that Bolich pleaded guilty and his identity was not at issue in this matter. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Thomas M. Bolich
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk