

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARBY NEAGLE,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; THE HONORABLE DOUGLAS  
W. HERNDON, DISTRICT JUDGE;  
AND SHERIFF JOSEPH LOMBARDO,

Respondents,

and

THE STATE OF NEVADA,

Real Party in Interest.

No. 72087

**FILED**

FEB 23 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER DENYING PETITION*

In this original petition for a writ of habeas corpus, petitioner Darby Neagle asserts that he is being unlawfully restrained because he did not commit driving under the influence as pleaded by the State. Neagle represents he is charged with driving under the influence of an intoxicating liquor or alcohol resulting in substantial bodily harm under NRS 484C.110 for willfully and unlawfully driving or being in actual physical control of a motor vehicle on a highway or premises to which the public has access while under the influence.<sup>1</sup> Neagle allegedly drove his vehicle, while intoxicated, onto a private walkway that is intended for pedestrian use only and struck and injured a person. Neagle asserts the

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<sup>1</sup>Neagle has only provided this court with a minimal record to review and has not provided this court with a copy of the charging document. And it is unclear if the State's theory of the case also includes driving prior to the collision.


charge against him is untenable because a private walkway is not a "highway" as defined in NRS 484A.095 and "[p]remises to which the public has access," as defined by NRS 484A.185, is limited to areas where vehicle operation is allowed.

Neagle has failed to demonstrate his liberty is being unlawfully restrained. See NRS 34.360. Based on the record provided to this court, it appears the State presented sufficient evidence to support a charge of driving under the influence of intoxicating liquor or alcohol resulting in substantial bodily harm based on a theory that Neagle willfully and unlawfully drove or was in actual physical control of a motor vehicle on premises to which the public has access while he was under the influence of an intoxicating liquor or alcohol. See *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."). Contrary to Neagle's assertion, there is no language in NRS 484A.185 that limits "[p]remises to which the public has access" only to areas used for vehicular travel. Compare NRS 484A.185 with NRS 484A.190 (defining "private way" and "driveway" as "every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not from other persons" (emphasis added)). Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Douglas W. Herndon, District Judge  
Law Offices of John G. Watkins  
The Pariente Law Firm, P.C.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk