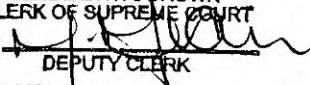


IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
JESSICA LINDSAY MAHAFFEY,
Respondent.

No. 88327
FILED
SEP 12 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal by the State from a district court order granting respondent Jessica Mahaffey's pretrial petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Mahaffey was charged with driving under the influence of alcohol and/or controlled or prohibited substance. At the preliminary hearing, the State presented testimony from several witnesses. Trooper Smithen testified that he noticed the license plate on the rear of Mahaffey's vehicle was improperly affixed by only one bolt, and then saw that the registration sticker was yellow, meaning that it had expired five days earlier. Trooper Smithen ran the registration through his records, confirmed that it was expired, and pulled Mahaffey over. When he approached Mahaffey, he smelled alcohol and observed signs that Mahaffey was intoxicated, and he called in another officer to conduct field sobriety tests. That officer testified about his interaction with Mahaffey and his belief that she was under the influence of controlled and/or prohibited

¹We conclude that this appeal may be resolved on the record and that briefing and oral argument are not necessary. *See* NRS 34.575(3).

substances. The justice court found the evidence established probable cause for the DUI charge and bound Mahaffey over for trial in the district court.

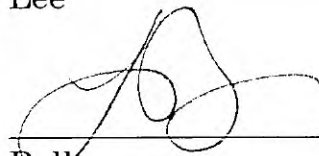
Mahaffey filed a habeas petition challenging the probable cause determination. In the petition and at the hearing on the petition, she argued that the justice court lacked probable cause to believe she committed the offense because the State presented insufficient evidence that she was under the influence. The district court granted the petition on a ground not raised by Mahaffey—that the traffic stop was illegal and therefore the evidence resulting from the stop was inadmissible.

We conclude that the district court substantially erred when it considered the legality of the traffic stop and determined that none of the evidence of the DUI was admissible at the preliminary hearing. *See Sheriff, Washoe Cnty. v. Shade*, 109 Nev. 826, 828, 858 P.2d 840, 841 (1993) (reviewing a district court's grant of a pretrial habeas petition for substantial error). The only issue before the court was whether the evidence presented by the State at the preliminary hearing established probable cause—i.e., slight or marginal evidence that Mahaffey committed the alleged DUI. *See Sheriff v. Hodes*, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980). The legality of the traffic stop was not raised in the petition nor argued by the parties, and the expired registration sticker provided a legal basis for the traffic stop. The district court thus improperly granted Mahaffey's habeas petition on this basis. Because the district court did not address the arguments raised below, we reverse and remand for the district court to consider the merits of Mahaffey's petition. Accordingly, we

ORDER the judgment of the district court REVERSED AND
REMAND this matter to the district court for proceedings consistent with
this order.


_____, J.
Herndon


_____, J.
Lee


_____, J.
Bell

cc: Hon. Kathleen A. Sigurdson, District Judge
Attorney General/Carson City
Washoe County District Attorney
Viloria, Oliphant, Oster & Aman L.L.P.
Washoe District Court Clerk