

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
KEVIN FILLIGER,
Respondent.

No. 91255

FILED

NOV 20 2025

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 in part a pretrial petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Jennifer L. Schwartz, Judge. Respondent Kevin Filliger was charged with numerous crimes after he allegedly entered the victim's home and shot her in the arm before fleeing. Filliger filed a pretrial habeas petition, which the district court granted as to the mayhem charge against Filliger. The State appealed.

"A district court's decision to grant a pretrial habeas petition for lack of probable cause will stand absent a showing of substantial error." *State v. Devries*, 140 Nev., Adv. Op. 82, 561 P.3d 42, 45 (2024) (internal quotation marks and alteration omitted). This court must "determine whether all of the evidence received . . . establishes probable cause to believe that an offense has been committed and that the accused committed it." *Kinsey v. Sheriff, Washoe Cnty.*, 87 Nev. 361, 363, 487 P.2d 340, 341 (1971). "A finding of probable cause may be based on slight, even marginal

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).

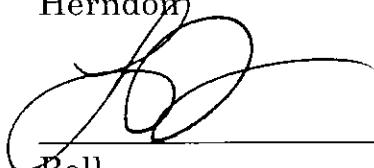
evidence because it does not involve a determination of the guilt or innocence of an accused.” *Devries*, 140 Nev., Adv. Op. 82, 561 P.3d at 45 (internal quotation marks omitted).

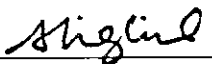
Here, the district court determined that the evidence presented did not establish probable cause for the charge of mayhem. Specifically, the district court concluded the evidence did not establish the element of disfigurement or rendering a body member useless. *See* NRS 200.280 (“Mayhem consists of unlawfully depriving a human being of a member of his or her body, or disfiguring or rendering it useless. If a person . . . disables any limb or member of another . . . that person is guilty of mayhem.”).

At the preliminary hearing, the State elicited testimony from the victim that she no longer had effective grip or full mobility in her fingers on the arm where Filliger allegedly shot her. We conclude the victim’s testimony constitutes at least slight or marginal evidence of disfigurement. *See, e.g., Beets v. State*, 107 Nev. 957, 962, 821 P.2d 1044, 1048 (1991) (affirming a conviction for mayhem where the victim testified “she had nerve damage and had not regained full ability to lift her wrist at the time of trial”). Whether that disfigurement is permanent is ultimately a question of fact for the jury. *See id.* Because the victim’s testimony supported probable cause for the offense of mayhem, we conclude the district court erred when it partially granted Filliger’s pretrial habeas petition and dismissed the mayhem charge. Accordingly, we

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


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Jennifer L. Schwartz, District Judge
Attorney General/Carson City
Clark County District Attorney
Clark County Public Defender
Eighth District Court Clerk