

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
DEEPEN SURESH KOTHARI,
Respondent.

No. 92177

FILED

APR 15 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order granting a pretrial petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jasmin D. Lilly-Spells, Judge.

Respondent Deepen Kothari was arrested on suspicion of luring a 13-year-old child with the intent to engage in sexual conduct. After the State obtained an indictment, Kothari filed a pretrial habeas petition challenging the probable cause determination. The district court granted the petition, and the State appealed.¹

“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) (citation modified). “A finding of probable cause may be based on slight, even marginal evidence because it does not involve a determination of the guilt or innocence of an accused.” *Id.* “If the State meets its burden to show probable cause that the defendant committed the charged crime, it is

¹Pursuant to NRS 34.575(3), this matter stands submitted for decision on the record without further briefs or oral argument.

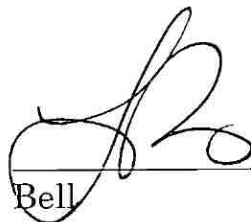
substantial error for a district court to grant a pretrial habeas petition.” *Id.* at 46.

Here, the district court determined that the evidence presented to the grand jury did not establish probable cause that Kothari was the person who committed the criminal conduct and was arrested. We conclude that this was substantial error. The State presented testimony from the undercover officer who, posing as a thirteen-year-old boy, exchanged messages with a person who identified himself as “Deepen” in the messages. The State also presented the messages exchanged between the suspect and the officer, and body-worn camera footage of the suspect’s arrest. The messages detailed a plan to meet at a park. At the time of the planned meeting, the suspect sent a message specifying his location at the park and noting that he was wearing a red shirt, sitting alone on a bench, and had condoms. The arresting officer testified that the person he arrested in the park matched that description. And the undercover officer testified that the phone possessed by the person arrested was the same phone from which the messages were sent. After the arrest, police identified the suspect as Kothari.


Notwithstanding the evidence the district court found inadmissible, we conclude the State satisfied the slight or marginal evidence required to establish probable cause that the person who sent the messages was the person arrested in the park, i.e., Kothari. *See State v. von Brincken*, 86 Nev. 769, 773, 476 P.2d 733, 735 (1970) (noting that circumstantial evidence, taken together, may be sufficient to establish probable cause as to identity); *see Burton v. Sheriff, Clark Cnty.*, 93 Nev. 346, 347, 565 P.2d 1010, 1011 (1977) (“[I]dentity of name is sufficient to prove identity of person in the absence of contradictory evidence.”); *Snow v.*

State, 101 Nev. 439, 445, 705 P.2d 632, 637 (1985) (holding that photographic identification before a grand jury is not required to establish probable cause as to identity). We therefore conclude that the district court erred in granting Kothari's pretrial habeas petition and dismissing the charge. *Devries*, 140 Nev., Adv. Op. 82, 561 P.3d at 45. 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.
Bell


_____, J.
Stiglich


_____, J.
Cadish

cc: Hon. Jasmin D. Lilly-Spells, District Judge
Attorney General/Carson City
Clark County District Attorney
Clark County Public Defender
Eighth District Court Clerk