

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Petitioner,

vs.

THE TENTH JUDICIAL DISTRICT OF  
THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF CHURCHILL; AND  
THE HONORABLE CHARLES M.  
MCGEE,  
Respondents,  
and  
MICHAEL DWAYNE BYARS,  
Real Party in Interest.

No. 65894

**FILED**

JAN 15 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER DISMISSING PETITION*

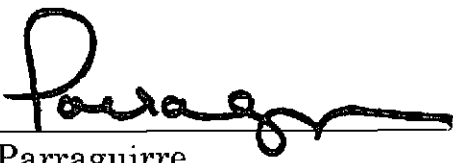
This original petition for a writ of certiorari challenges a district court decision on appeal from a misdemeanor conviction for driving under the influence of marijuana concluding that the results of the real party in interest's blood test were inadmissible because the real party in interest did not consent to the blood draw and no exigent circumstances existed to excuse the warrant requirement. Petitioner argues that a writ of certiorari is appropriate to review the constitutionality of NRS 484C.160 (implied consent statute).

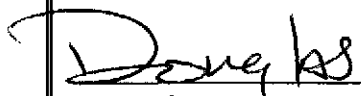
NRS 34.020(2) provides that a writ of certiorari shall be granted "[i]n any case prosecuted for the violation of a statute or municipal ordinance wherein an appeal has been taken from a Justice Court or from a municipal court, and wherein the district court has passed upon the constitutionality or validity of such statute or ordinance." See *Zamparripa v. First Judicial Dist. Court*, 103 Nev. 638, 640, 747 P.3d 1386, 1387 (1987). We recently considered the constitutionality of a

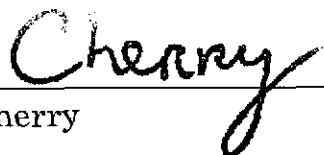
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warrantless, nonconsensual blood draw conducted pursuant to NRS 484C.160(7), which allows a police officer to use force to obtain a blood sample from a person, and concluded that this provision was unconstitutional. *Byars v. State*, 130 Nev. \_\_\_, 336 P.3d 939 (2014). Therefore, petitioner's inquiry concerning the constitutionality of the implied consent statute has been decided. Accordingly, we

ORDER the petition DISMISSED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Cherry

cc: Chief Judge, Tenth Judicial District  
Hon. Charles M. McGee, Senior Judge  
Churchill County District Attorney/Fallon  
Attorney General/Carson City  
The Law Office of Jacob N. Sommer  
Churchill County Clerk