



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

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Tracie K. Lindeman
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Steven D. Grierson
Clerk of the Court

Brandi J. Wendel
Court Division Administrator

June 17, 2015

Tracie Lindeman
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: STATE OF NEVADA vs. DWIGHT SOLANDER
S.C. CASE: 67710
D.C. CASE: C299737-1

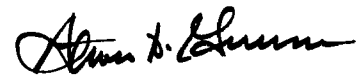
Dear Ms. Lindeman:

Pursuant to your Order Directing Entry and Transmission of Written Order, dated April 16, 2015, enclosed is a certified copy of the Findings of Fact, Conclusions of Law and Order filed June 17, 2015 in the above referenced case. If you have any questions regarding this matter, please do not hesitate to contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

A handwritten signature in black ink, appearing to read "Heather Ungermann", with a long horizontal flourish extending to the right.

Heather Ungermann, Deputy Clerk



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

DWIGHT CONRAD SOLANDER

Defendant.

CASE NO. C-14-299737-1

DEPT. NO. XXI

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter having come on for hearing on November 6, 2014 and December 18, 2014, and after considering all of the pleadings submitted, the transcripts of the preliminary hearing, and oral arguments, the Court ORDERS that Defendant Dwight Conrad Solander's Petition for Writ of Habeas Corpus is GRANTED IN PART as to the criminal counts alleging Sexual Assault with a catheter, and DENIED IN PART as to the remaining counts for the following reasons:

1 FINDINGS OF FACT

2 The accused, DWIGHT CONRAD SOLANDER (hereinafter "Mr. Solander"), was
3 charged by way of an Information with twenty five (25) counts of various allegations of child
4 abuse, neglect, and endangerment, with and without substantial bodily harm, and sexual
5 assault based upon alleged events occurring between January 2011 and March 2014,
6 involving his three (3) adopted daughters. He, along with his wife, JANET SOLANDER,
7 and adult stepdaughter DANIELLE HINTON, the co-defendants, were charged with
8 committing various acts of physical child abuse, neglect, and endangerment, and sexual
9 assault.

10 The underlying facts of the case are that Mr. Solander and his wife adopted three (3)
11 sisters on January 19, 2011, after fostering these girls for the previous six (6) months. These
12 girls had a history of abuse and neglect by their biological father and various behavioral
13 issues. All of the girls were placed on a restrictive diet for constipation issues and possible
14 Crohn's Disease, ostensibly on the advice of a physician.

15 The alleged victims in this case testified that they did not want to be adopted by the
16 Solanders. Ms. Solander homeschooled the girls five (5) days per week after they were
17 removed from traditional public school allegedly because of behavioral issues. At timed
18 intervals, the girls were asked if they needed to break for the restroom. Many times, the girls
19 declined to go to the bathroom and would instead soil themselves. They testified that
20 sometimes they soiled themselves on purpose. As this pattern continued, a demerit
21 ("points") system was implemented. After a certain number of negative points were earned,
22 a form of discipline would follow, such as spanking with a paint stick. During the day, the
23 girls were forced to sit in their underwear and undershirts on buckets with toilet lids. The
24 youngest was forced to sit on a "training potty" for long hours.

25 The Solander girls alleged numerous instances of sexual assault and physical abuse.
26 Generally categorized, they included withholding of food, withholding of bathroom
27 privileges, spanking, kicking, forcing the girls to sit on make-shift bucket toilets, forcing the
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1 girl(s) to hold urine and/or bowel movements for an extended period of time, insertion of
2 catheters, and the insertion of a paint stick into the vagina.

3 The girls testified that Ms. Solander, who purports to be a nurse, inserted catheters
4 because she did not want them urinating on themselves when she had to leave the house and
5 left the girls with babysitters. One (1) daughter testified that Ms. Solander inserted a paint
6 stick into her vagina as discipline. Although Mr. Solander did not actually insert the
7 catheters, he was aware of this practice and actually purchased the catheters and/or related
8 plastic tubing. The insertion of the catheters formed the basis of the sexual assault charges
9 against Mr. Solander.

10 After hearing several days of argument on Mr. Solander's Petition for Writ of Habeas
11 Corpus, and after considering all of the written pleadings in this matter, and the preliminary
12 hearing transcript, the District Court found that there was slight or marginal evidence that
13 Ms. Solander inserted the catheters and that Mr. Solander was aware that this was occurring
14 but that there was an absence of preliminary hearing testimony by any of the alleged victims
15 regarding how a catheter was inserted, or the extent, if any, of genital probing. There was
16 also an absence of expert testimony regarding how a catheter is inserted. Based on the
17 testimony of these victims, the insertion of any catheter was an attempt to determine whether
18 the children were being truthful about not having any urinary content.

19 CONCLUSIONS OF LAW

20 A writ of habeas corpus is the fundamental instrument for safeguarding individual
21 freedom against arbitrary and lawless action. Its preeminent role is recognized in that, "The
22 Privilege of the Writ of Habeas Corpus shall not be suspended." Harris v. Nelson, 394 U.S.
23 286, 290-91, 89 S.Ct 1082 (1969). Since 1912, the Nevada Supreme Court has recognized
24 that the Writ of Habeas Corpus is the plain, speedy and adequate remedy by which to
25 determine the legal sufficiency of the evidence supporting a grand jury indictment or
26 preliminary hearing bind over. See, e.g., Eureka County Bank Habeas Corpus Cases, 35

1 Nev. 80, 126 P. 655 (1912); Ex parte Stearns, 68 Nev. 155, 227 P.2d 971 (1951); Ex Parte
2 Colton, 72 Nev. 83, 295 P.2d 383 (1956). The Nevada Supreme Court has held, "It is
3 fundamentally unfair to require one to stand trial unless he is committed upon a criminal
4 charge with reasonable or probable cause. No one would suggest that an accused person
5 should be tried for a public offense if there exists no reasonable or probable cause for trial."
6 Shelby v. Sixth Judicial Dist. Court In and For Pershing County, 82 Nev. 204, 207-208, 414
7 P.2d 942, 943-944 (1966). The writ has been most commonly used to test probable cause
8 following a preliminary examination resulting in an order that the accused be held to answer
9 in the district court. See, e.g., State v. Plas, 80 Nev. 251, 391 P.2d 867 (1964); Beasley v.
10 Lamb, 79 Nev. 78, 378 P.2d 524 (1963).

11 During preliminary hearing proceedings, the State must elicit sufficient evidence
12 demonstrating probable cause that a crime was committed and that the accused was likely the
13 perpetrator. Sheriff v. Miley, 99 Nev. 377, 379; 663 P.2d 343, 344 (1983). If the magistrate
14 determines that the evidence establishes probable cause that the defendant committed an
15 offense, the magistrate binds the defendant over to the district court and may admit the
16 defendant to bail. NRS 171.206. On the other hand, if the evidence does not establish
17 probable cause, the magistrate must discharge the defendant. Id. At the preliminary hearing
18 stage, probable cause to bind a defendant over for trial "may be based on 'slight,' even
19 'marginal' evidence because it does not involve a determination of guilt or innocence of an
20 accused." Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980). The State is
21 required to present sufficient evidence "to support a reasonable inference that the accused
22 committed the offense." Sheriff v. Milton, 109 Nev. 412, 414, 851 P.2d 417, 418 (1993),
23 quoting Kinsey v. Sheriff, 87 Nev. 361, 363, 487 P.2d 340, 341 (1971).

24 It is appropriate for a District Court to grant a petition for a writ of habeas corpus
25 when the prosecution acts in "a willful or consciously indifferent manner with regard to a
26 defendant's procedural rights, or where the defendant is bound over on criminal charges
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1 without probable cause.” See, e.g., Dettloff v. State, 120 Nev. 588, 595; 97 P. 3d 586, 590
2 (2004) (quoting Sheriff v. Roylance, 110 Nev. 334, 337, 871 P.2d 359, 361 (1994).

3 For a conviction of sexual assault to be lawful, a defendant must have: (1) knowingly,
4 willfully, and unlawfully, (2) without consent, subjected another person, (3) to sexual
5 penetration. Hardaway v. State, 112 Nev. 1208, 1210, 926 P.2d 288, 289 (1996); NRS
6 200.366. “Sexual penetration” means cunnilingus, fellatio, or any intrusion, however slight,
7 of any part of a person's body or any object manipulated or inserted by a person into the
8 genital or anal openings of the body of another, including sexual intercourse in its ordinary
9 meaning. NRS 200.364(5).

10 It would not be proper for a jury to consider a question of law as to the legislative
11 intent behind the Sexual Assault statute and to request that the jurors be admonished to
12 follow the law and determine whether or not the insertion of a catheter should be considered
13 a Sexual Assault. For that reason, it is the District Court’s duty to decide whether the act of
14 inserting a catheter into a urinary opening for the purpose of voiding the bladder is within the
15 statutory meaning and legislative intent of a Sexual Assault. No precedent exists that an
16 insertion of a catheter into the urethra is consistent with the Nevada Legislature’s intent for
17 NRS 200.366. The Court finds that it is not within the statutory meaning or legislative intent
18 for the insertion of a catheter to meet the elements of a Sexual Assault.

19 As to the remaining counts, the Court finds that slight or marginal evidence exists for
20 Mr. Solander to stand trial.

21 ORDER

22 **IT IS HEREBY ORDERED** that Defendant Dwight Conrad Solander’s Petition for
23 Writ of Habeas Corpus is GRANTED IN PART as to the criminal counts alleging Sexual
24 Assault with a catheter, and DENIED as to the remaining counts.

IT IS HEREBY FURTHER ORDERED that the State shall prepare an Amended Information consistent with this Order dismissing the counts of Sexual Assault via the insertion of a catheter.

DATED this 16 day of June, 2015.

Valerie Adair
HONORABLE VALERIE ADAIR
Eighth Judicial District Court Judge

Certificate of Service

I hereby certify that on the date filed, I placed a copy of this Order in the attorney's folder in the Clerk's Office, mailed or faxed a copy to:

Craig Mueller, Esq. (Mueller, Hinds & Associates)
Public Defender
Kristina Wildeveld, Esq. (Wildeveld & Associates)
District Attorney

Sharry Frascaelli
Sharry Frascaelli
Judicial Executive Assistant



Clerk of the Courts
Steven D. Grierson

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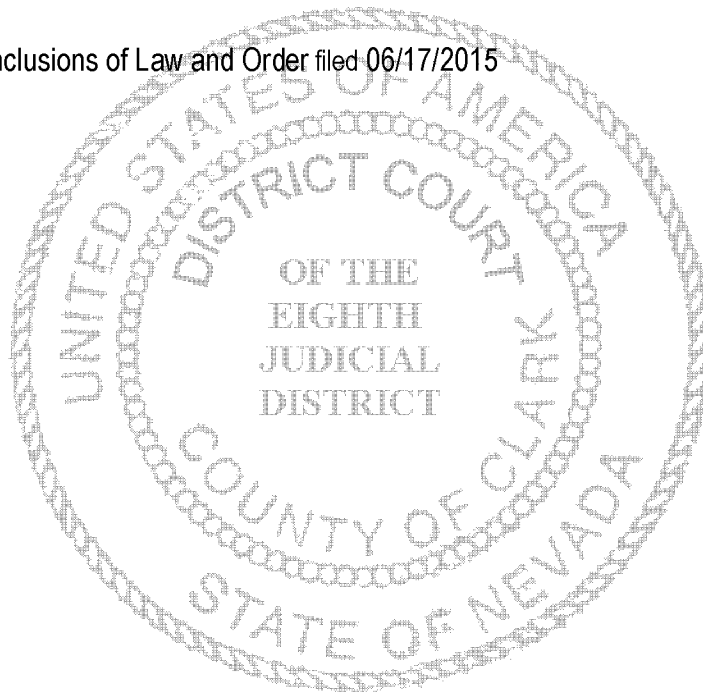
June 17, 2015

Case No.: C299737-1

CERTIFICATION OF COPY


Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full, and correct copy of the hereinafter stated original document(s):

Findings of Fact, Conclusions of Law and Order filed 06/17/2015



now on file and of

In witness whereof, I have hereunto set my hand and affixed the seal of the Eighth Judicial District Court at my office, Las Vegas, Nevada, at 3:35 PM on June 17, 2015.


STEVEN D. GRIERSON, CLERK OF THE COURT