

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLIFFORD EVARTS,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
VALERIE ADAIR, DISTRICT JUDGE,
Respondents,
and
CITY OF LAS VEGAS,
Real Party in Interest.

No. 44377

FILED

NOV 16 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Ruband*
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of certiorari challenging a district court order dismissing an appeal from a municipal court misdemeanor conviction of violating a Las Vegas ordinance. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Petitioner Clifford Evarts was found guilty of violating Municipal Code 6.62.020(B), which prohibits an agent from peddling or soliciting on behalf of a business without a work card or solicitation permit. Evarts's conviction was affirmed by the district court. Evarts now petitions for a writ of certiorari, arguing the provisions of the ordinance are unconstitutionally vague and that there was insufficient evidence to support his conviction.

Las Vegas Municipal Code 6.62.010(D) defines "peddler/solicitor permit" as "a permit issued to a business to authorize the business to peddle or solicit."

LVMC 6.62.020 contains the following provisions governing solicitors:

Except as otherwise provided in this Chapter:

(A) No person shall peddle or solicit in the City without first obtaining and thereafter maintaining:

(1) A valid, unexpired peddler/solicitor permit or agent solicitation permit issued pursuant to this Chapter; and

(2) A valid, unexpired work card issued pursuant to LVMC Chapter 6.86.

Under LVMC 6.62.020(B), “[n]o principal of a business shall authorize or permit an agent to peddle or solicit on behalf of the business unless the agent has obtained and maintains a valid, unexpired work card and an agent solicitation permit.” LVMC 6.62.040 states, “[t]he holder of a valid, unexpired City business license is not required to obtain a peddler/solicitor permit under this new Chapter or pay a permit fee on behalf of its agents with respect to peddling or solicitation activities in furtherance of that business.”

A law is unconstitutionally vague in violation of due process if it “fails to provide persons of ordinary intelligence with fair notice of what conduct is prohibited and also fails to provide law enforcement officials with adequate guidelines to prevent discriminatory enforcement.”¹ Statutes enjoy a presumption of validity, thus the burden is on Evarts to demonstrate how these ordinances are unconstitutional.²

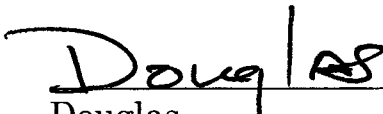
¹Sheriff v. Vlasak, 111 Nev. 59, 61, 888 P.2d 441, 443 (1995) (quoting State v. Richard, 108 Nev. 626, 629, 836 P.2d 622, 624 (1992)).


²Id. at 61-62, 888 P.2d at 443 (quoting Wilmeth v. State, 96 Nev. 403, 405, 610 P.2d 735, 737 (1980)).

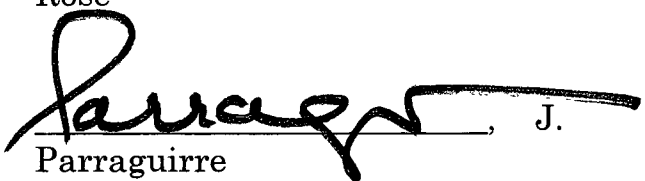
We conclude that Evarts has failed to satisfy his burden. The ordinances clearly provide fair notice of the prohibited conduct, namely, that a business owner may not authorize or permit an agent lacking a work card and/or solicitor's permit to bring him business.

In addition, sufficient evidence supports the municipal court's determination that Evarts violated the ordinance when he accepted the business his agent brought to the chapel.³ Accordingly, we

ORDER the petition DENIED.


_____, J.
Douglas


_____, J.
Rose


_____, J.
Parraguirre

cc: Hon. Valerie Adair, District Judge
JoNell Thomas
Las Vegas City Attorney
Clark County Clerk

³See Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984) (sufficient evidence exists when “after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979) (emphasis in original))).