

IN THE SUPREME COURT OF THE STATE OF NEVADA

ARENT TANGVALD SJURSEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47697

FILED

JAN 05 2007

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of open or gross lewdness. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge. The district court sentenced appellant Arent Tangvald Sjursen to a prison term of 12 to 36 months.

Sjursen's sole contention on appeal is that the district court should have continued the sentencing hearing. Specifically, he argues that because defense counsel expressed doubt as to Sjursen's competence, the district court should have ordered a competency evaluation. Sjursen relies on NRS 178.405, which provides: "[W]hen . . . the defendant is brought up for judgment, if doubt arises as to the competence of the defendant, the court shall suspend . . . the pronouncing of the judgment, . . . until the question of competence is determined."

NRS 178.405 refers to "doubt in the mind of the trial court, rather than counsel or others. A determination whether doubt exists rests largely within the discretion of the trial judge."¹ Absent a reasonable doubt as to a defendant's competence, the district court is not required to

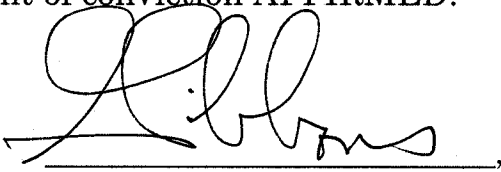
¹Williams v. State, 85 Nev. 169, 174, 451 P.2d 848, 852 (1969) (citation omitted).

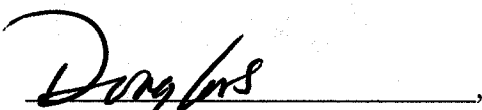
order a competency examination.² Moreover, "[a] bare allegation of incompetence is not sufficient to raise a reasonable doubt as to competence."³

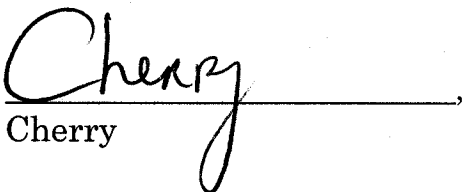
In this case, the district court noted that Sjursen had been found to be competent approximately one year prior to the sentencing hearing, and that Sjursen was always lucid at his court appearances. The district judge then stated that he did not "see any evidence in here that [Sjursen] is truly incompetent under the legal standard to go forward." In light of the findings by the district court, we conclude that the district court did not err by denying the request for a competency hearing, despite defense counsel's statement to the court that he had doubts about Sjursen's competence.

Having considered Sjursen's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

²Jones v. State, 107 Nev. 632, 638, 817 P.2d 1179, 1182 (1991).

³Martin v. State, 96 Nev. 324, 325, 608 P.2d 502, 503 (1980).

cc: Hon. Steven P. Elliott, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk