


IN THE SUPREME COURT OF THE STATE OF NEVADA

LANCE G. KRIG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50976

FILED

FEB 02 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a plea in accordance with North Carolina v. Alford, 400 U.S. 25 (1970), of a single count of coercion. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. The district court sentenced appellant Lance Krig to serve a term of 12 to 48 months in prison.

On appeal, Krig claims that the district court erred in denying his pretrial motion to dismiss for lack of subject matter jurisdiction. Specifically, Krig argues that the statutes under which he was charged and convicted¹ are unconstitutional, as they each lack the enacting clause mandated by Article 4, Section 23 of the Nevada Constitution. This argument is without merit.

¹The amended criminal information charged Krig with two counts of sexual assault in violation of NRS 200.364 and NRS 200.366, and one count of attempted sexual assault in violation of NRS 200.364, NRS 200.366 and NRS 193.330. The second amended information, to which Krig pleaded guilty, charged Krig with one count of coercion in violation of NRS 207.190.

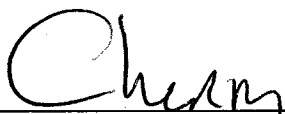
The enacting clause of the Nevada Constitution states, “The enacting clause of every law shall be as follows: ‘The people of the State of Nevada represented in Senate and Assembly, do enact as follows,’ and no law shall be enacted except by bill.” Nev. Const. art 4, § 23. This court has interpreted the enacting clause to require that all laws express upon their face “the authority by which they were enacted.” State of Nevada v. Rogers, 10 Nev. 250, 261, 1875 WL 4032, at * 7 (1875). Krig asserts that the laws under which he was charged and convicted, as compiled in the Nevada Revised Statutes, lack this enacting clause and are therefore unconstitutional.


However, Krig fails to recognize that each of the acts creating and last amending the statutes at issue, as published in the Advanced Sheets of Nevada Statutes (Statutes of Nevada), begins with the phrase “THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS.” 1997 Nev. Stat., ch. 313, at 1174; 1995 Nev. Stat., ch. 293, at 508; 2007 Nev. Stat., ch. 528, at 3245; 1995 Nev. Stat., ch. 443, at 1167. Thus, the statutes under which Krig was charged and convicted comply with the constitutional mandate of Article 4, Section 23. See Ledden v. State, 686 N.W.2d 873, 876-77 (Minn. 2004) (holding that, where appellant argued that his convictions were unconstitutional because statutes under which he was charged did not contain constitutionally required enacting clauses, appellant’s convictions were not unconstitutional as acts creating and amending laws began with required phrase); State v. Wittine, No. 90747, 2008 WL 4813830, * 4 (Ohio Ct. App. Nov. 6, 2008) (holding that omission of constitutionally required enacting clauses in Ohio Revised Code “in no

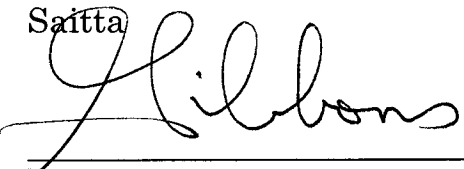
way affects the validity of the statutes themselves” where clauses were contained in senate bill enacting laws).

Further, Krig’s argument conflates the laws of Nevada with the codified statutes. The Nevada Revised Statutes “constitute the official codified version of the Statutes of Nevada and may be cited as prima facie evidence of the law.” NRS 220.170(3). The Nevada Revised Statutes consist of enacted laws which have been classified, codified, and annotated by the Legislative Counsel. See NRS 220.120. The actual laws of Nevada are contained in the Statutes of Nevada, which as mentioned above, do contain the mandatory enacting clauses. Moreover, NRS 220.110, which sets forth the required contents of the Nevada Revised Statutes, does not mandate that the enacting clauses be republished in the Nevada Revised Statutes. Thus, we conclude that the fact that the Nevada Revised Statutes do not contain enacting clauses does not render the statutes unconstitutional. Therefore, Krig’s convictions are not constitutionally deficient. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Donald M. Mosley, District Judge
Paul E. Wommer
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk