

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANA FUHRENG A/K/A DANAMARIE  
FUHRENG,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52691

**FILED**

**NOV 05 2009**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of conspiracy to traffic in a controlled substance and two counts of trafficking in a controlled substance. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Dana Fuhreng to serve three concurrent prison terms of 12-30 months.

Fuhreng contends that the district court erred by denying her motion in limine to preclude the State from offering into evidence a recorded telephone call between herself and her codefendant. Fuhreng claims the admission of the recorded call violated her right to confrontation under the Sixth Amendment. See U.S. Const. amend VI; Bruton v. United States, 391 U.S. 123, 127-28 (1968) (holding that the admission of a nontestifying codefendant's confession expressly

implicating the defendant in a charged crime deprives the defendant of her rights under the Confrontation Clause).

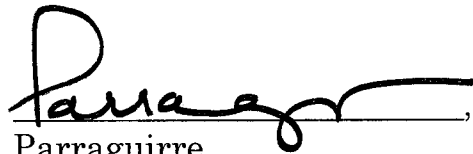
During arguments, the district court expressly noted that Fuhreng's motion was untimely. The district court also rejected the motion on its merits, finding that Fuhreng failed to demonstrate that the recorded conversation contained inculpatory information.

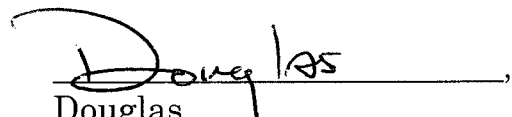
We conclude that Fuhreng failed to demonstrate that the district court erred by denying her motion in limine. Fuhreng filed her motion on the first day of trial, and thus, it was untimely. See NRS 174.125(1), (3)(a); EDCR 3.28. Moreover, Fuhreng did not submit an affidavit alleging good cause for the untimely filing. See NRS 174.125(3)(b), (4); EDCR 3.20(a). Finally, Fuhreng has not provided this court with either the actual exhibit admitted at trial or a transcript of the recorded call; instead, “[c]ounsel apologi[z]es once again to this Court for the incomplete record.” As a result, we are unable to meaningfully review Fuhreng’s claim that admission of the recorded conversation violated her right to confrontation. See Thomas v. State, 120 Nev. 37, 43 & n.4, 83 P.3d 818, 822 & n.4 (2004) (“Appellant has the ultimate responsibility to provide this court with ‘portions of the record essential to determination of issues raised in appellant’s appeal.’” (quoting NRAP 30(b)(3))); Phillips v. State, 105 Nev. 631, 634, 782 P.2d 381, 383 (1989) (recognizing that appellant’s failure to include in record on appeal evidence from trial court record relevant to issue raised constitutes a failure to preserve issue for

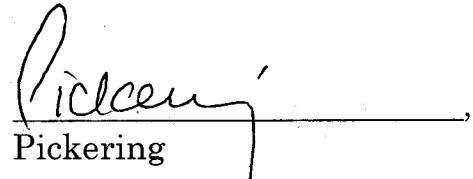
appeal); Greene v. State, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980).

Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
Parraguirre J.

  
Douglas J.

  
Pickering J.

cc: Eighth Judicial District Court Dept. 7, District Judge  
Law Offices of Cynthia Dustin  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk