IN THE SUPREME COURT OF THE STATE OF NEVADA

KELVIN KARL BLACKMAN, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53468

ORDER OF REVERSAL AND REMAND

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of pandering of a child, pandering by furnishing transportation, and child abuse and neglect. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

First, appellant Kelvin Karl Blackman, Jr., contends that his Sixth Amendment right of confrontation was violated when the district court refused to allow him to cross-examine a crucial witness about her probationary status as a juvenile delinquent. He claims that the district court erred by ruling that evidence of the witness's juvenile record was inadmissible pursuant to NRS 50.095(4) because his purpose for presenting this evidence was to expose bias and show facts that might color the witness's testimony. We agree.

The State's interest in maintaining the confidentiality of juvenile records was outweighed by Blackman's constitutional right to confront the prosecution's witness. See Davis v. Alaska, 415 U.S. 308, 319 (1974); Stamps v. State, 107 Nev. 372, 376, 812 P.2d 351, 353-54 (1991).

And because the State's case depended on the witness's testimony, very little evidence corroborated the witness's testimony, and evidence of the witness's probationary status as a juvenile delinquent would not have been cumulative, we cannot say that the error was harmless beyond a reasonable doubt. See Delaware v. Van Arsdall, 475 U.S. 673, 684 (1986) (describing the standard for harmless error review in confrontation clause cases); Stamps, 107 Nev. at 377, 812 P.2d at 354.

Second, Blackman contends that NRS 201.300(1) is unconstitutionally overbroad and vague because it impermissibly restricts the exercise of free speech and is void for vagueness because it fails to provide adequate notice of what conduct is prohibited, permits arbitrary or discriminatory enforcement, and fails to describe the requisite criminal intent. In Ford v. State, 127 Nev. ___, ___ P.3d ___ (Adv. Op. No. 55, September 29, 2011), we held that NRS 201.300(1) is not unconstitutionally overbroad or vague. But here, as in Ford, the district court's failure to properly instruct the jury on the intent necessary to support a conviction for pandering of a child requires reversal of this count.

Finally, Blackman contends that insufficient evidence supports his convictions for pandering. However, this claim lacks merit because the evidence when viewed in the light most favorable to the State is sufficient to establish his guilt beyond a reasonable doubt as determined by a rational trier of fact. See NRS 201.300(1); NRS 201.340(1); Jackson v. Virginia, 443 U.S. 307, 319 (1979); see generally Ford, 127 Nev. ___, ___ P.3d ___ (Adv. Op. No. 55, September 29, 2011).

For the reasons discussed above, we conclude that Blackman's convictions cannot stand and we

ORDER the judgment of conviction REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.[1]

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. Michael Villani, District Judge
Law Offices of Martin Hart, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

[1]In light of our disposition, we decline to consider Blackman's remaining contentions.