


IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCISCO SILVA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53550

FILED

MAY 10 2010

TRACIE A. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of eight counts of lewdness with a child under 14 years of age and one count of sexual assault of a child under 14 years. Eighth Judicial District Court, Clark County; Valerie Adair, Judge. Appellant Francisco Silva raises two issues on appeal.

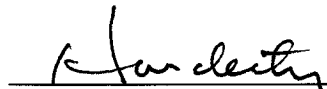
First, Silva claims that the district court erred when it denied his request to adjourn trial for the balance of the day after one of his attorneys was arrested. Silva's principal counsel—who remained free—was Silva's attorney for his first trial on these charges, which ended in mistrial at closing arguments. Silva contends that by not allowing the continuance, the district court forced his attorney to choose between getting co-counsel out of jail and preparing Silva to testify, thereby infringing upon his Sixth Amendment rights. Those rights are indeed harmed when the district court orders certain restrictions on a criminal defendant's access to his or her attorney. See, e.g., U.S. v. Sandoval-Mendoza, 472 F.3d 645, 651 (9th Cir. 2006) (barring attorney-client discussion overnight prohibited); U.S. v. Cobb, 905 F.2d 784, 792 (4th Cir. 1990) (barring weekend discussion of cross-examination testimony prohibited). Here, however, the district court gave no such order, and we

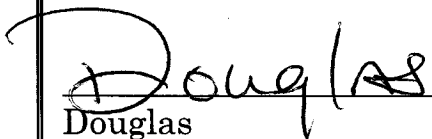
see no abuse of discretion in refusing the continuance. See Rose v. State, 123 Nev. 194, 206, 163 P.3d 408, 416 (2007).


Silva next contends that the district court erred in admitting a letter that he denied writing and in permitting the jury to consider the letter without expert testimony. As to the latter claim, Silva failed to raise this issue below, and, because expert testimony is not required to authenticate such evidence, see NRS 52.035, we conclude that none of Silva's "substantial rights" were affected. See Gallego v. State, 117 Nev. 348, 365, 23 P.3d 227, 239 (2001); see also NRS 178.602. Similarly, although Silva asserts that he did not write the letter—and, in fact, repeatedly claimed that he is illiterate—his brother-in-law testified that he recognized the handwriting in the letter as Silva's. NRS 52.035 permits the jury to consider such evidence and the district court was therefore not "manifestly wrong" in admitting it. Colon v. State, 113 Nev. 484, 491, 938 P.2d 714, 719 (1997).

Having considered Silva's claims and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.


Hardesty, J.


Douglas, J.


Pickering, J.

cc: Hon. Valerie Adair, District Judge
David Lee Phillips & Associates
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk