

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES BEN FRITSCHÉ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54131

FILED

MAY 10 2010

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of sexual assault and lewdness with a child under the age of fourteen. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant Charles Ben Fritsche claims that the district court committed reversible error when it precluded a State's witness from stating that Fritsche did not confess. We disagree. When Fritsche attempted to elicit testimony on this non-confession from the detective who had interviewed him, the State objected on hearsay grounds and the district court sustained the objection. Fritsche claims that his improper question left the jury with the impression that he may have confessed, an impression he was not allowed to correct. But after extended argument outside the presence of the jury, the district court assisted Fritsche in fashioning an unobjectionable question and overruled the State's objection to the new question. Fritsche, however, never asked it. We conclude it was not an abuse of discretion for the district court to exclude the non-confession testimony under the circumstances of this case. See Hernandez v. State, 124 Nev. ___, ___, 188 P.3d 1126, 1131 (2008).

Having considered appellant's claim and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Janet J. Berry, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk