IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCIS COTHIERE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54545

FILED

NOV 18 2011

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 attempted pandering. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

Appellant Francis Cothiere has failed to provide this court with an adequate record of the district court proceedings, and therefore we address his claims based solely on the district court minutes and the submitted briefs. See Jacobs v. State, 91 Nev. 155, 158, 532 P.2d 1034, 1036 (1975) ("It is the appellant's responsibility to provide the materials necessary for this court's review."). Cothiere alleges five errors on appeal.

First, Cothiere contends that the pandering statute is unconstitutionally vague and overbroad. This argument is foreclosed by this court's opinion in Ford v. State and therefore lacks merit. See 127 Nev. __, __ P.3d __ (Nev. Adv. Op. No. 55, September 29, 2011) (holding that NRS 201.300 is not unconstitutionally vague or overbroad).

Second, Cothiere contends that the pandering statute violates the equal protection clause as applied. This claim also lacks merit as Cothiere has failed to establish that any of the decision makers in his case

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acted with a discriminatory purpose. See McCleskey v. Kemp, 481 U.S. 279, 297-98 (1987) (denying equal protection claim where appellant failed to establish discriminatory purpose).

Third, Cothiere contends that there is insufficient evidence to support the verdict. We reject Cothiere's argument that using his words to convict him violates the corpus delicti rule stated in Hooker v. Sheriff, 89 Nev. 89, 506 P.2d. 1262 (1973). See Ford, 127 Nev. at __ n.9 __ P.3d at __ n.9 (Nev. Adv. Op. No. 55 at 25 n.9, September 29, 2011) (explaining that Hooker only addresses post-crime admissions or confessions). We also conclude that the undercover detective's testimony did not negate an essential element of the crime. See id. at __, __ P.3d at __ (Adv. Op. No. 55 at 22, September 29, 2011) (explaining that pandering does not require defendant's act of persuasion to succeed). Accordingly, Cothiere has not established that there was insufficient evidence to support the verdict. See Mitchell v. State, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008) (explaining the test for insufficient evidence review).

Fourth, Cothiere argues that he was only able to spend five hours at the law library and therefore could not adequately prepare for trial. See Wilkie v. State, 98 Nev. 192, 194, 644 P.2d 508, 509 (1982) ("[T]he right of self-representation includes a right of access to an adequate law library."). However, Cothiere informed the court that he was prepared and ready to proceed to trial after he was granted a 60-day continuance and a court order allowed him access to the law library. Therefore, we do not conclude that his rights were violated. Martin v. Davies, 917 F.2d 336, 340 (7th Cir. 1990) ("Simply because a defendant has refused counsel does not entitle him to limitless access to libraries.").

Finally, Cothiere argues that his Sixth Amendment rights were violated when the district court conducted an inadequate Faretta canvass.[1] Specifically, he argues that the district court inaccurately explained the difference between pandering and attempted pandering. While we agree that the district court mistakenly distinguished between the two offenses based on the defendant's success in recruiting his target to become or remain a prostitute, Cothiere has failed to explain how this fact affected his decision to represent himself or prejudiced his defense. See Ford, 127 Nev. at __, __ P.3d at __ (Nev. Adv. Op. No. 55 at 24, September 29, 2011) (explaining that the difference between pandering and attempted pandering is whether the actor's unlawful message reaches the intended target). It is clear from the limited record provided to this court that Cothiere understood that the gravamen of attempted pandering was the act of encouraging a person to become or remain a prostitute not its success. See id. at __, __ P.3d at __ (Nev. Adv. Op. No. 55 at 22, September 29, 2011) (explaining that pandering is an inchoate crime of solicitation based on defendant's specific intent). Furthermore, the district court read the exact language of the relevant statutes to Cothiere during the canvass and repeatedly warned him of the risks of self-representation. See Hymon v. State, 121 Nev. 200, 212, 111 P.3d 1092, 1101 (2005) (explaining that "[t]he court should conduct a Faretta canvass to apprise the defendant fully of the risks of self-representation and of the nature of

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[1]Faretta v. California, 422 U.S. 806 (1975).

the charged crime" (internal quotations omitted)). We therefore conclude that the district court's Faretta canvass was sufficient. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

_______________, J.
Douglas

_______________, J.
Hardesty

_______________, J.
Parraguirre

cc: Hon. Donald M. Mosley, District Judge
Keith C. Brower
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk