

IN THE SUPREME COURT OF THE STATE OF NEVADA

TODDERICK RANDALL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54620

FILED

JUN 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingersoll*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of one count of propelling a bodily fluid by an inmate in lawful custody. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

First, appellant Todderick Randall contends that he was denied his constitutional right to represent himself. See Faretta v. California, 422 U.S. 806, 818-19 (1975). Prior to his preliminary hearing, Randall filed a proper person motion for self-representation. The justice court denied Randall's motion and subsequently ordered him to answer for the felony charge in the district court. Because Randall and his attorney appeared in the district court and Randall did not renew his request for self-representation, we conclude that he is not entitled to relief on appeal. See generally, Hooks v. State, 124 Nev. 48, 49, 51, 176 P.3d 1081, 1081, 1082 (2008) (observing that a "Faretta canvass conducted in the justice court before a preliminary hearing will rarely be sufficient . . . to establish a valid waiver of the right to counsel at trial" and noting that Hooks renewed his request for self-representation when he appeared in the district court).

Second, Randall contends that he presented some evidence that he was insane and therefore the district court abused its discretion by not giving the instructions he proffered on the insanity defense. A defendant is entitled to jury instructions on the issue of insanity only if he presents evidence that his “delusion, if true, would justify the commission of the criminal act.” Finger v. State, 117 Nev. 548, 577, 27 P.3d 66, 85 (2001) (clarifying the standard announced in M’Naghten’s Case, 8 Eng. Rep. 718, 10 Cl. & Fin. 200, 211 (1843)). Here, the district court heard the evidence the defense presented and found that it did not show that Randall was delusional and, even if he was delusional, the voice telling him to hurt someone and that it would be alright showed an appreciation of wrongfulness and therefore did not qualify as evidence of legal insanity under the M’Naghten standard. The trial transcript supports the district court’s finding and we conclude that the district court’s rejection of the proffered insanity defense instructions did not constitute an abuse of discretion or judicial error. See Crawford v. State, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005).

Third, Randall contends that there was insufficient evidence to support his conviction because the State failed to prove that the substance that he threw onto the prison chaplain was in fact a human bodily fluid. However, our review of the record reveals sufficient evidence to establish Randall’s guilt beyond a reasonable doubt as determined by a rational trier of fact. See McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). In particular, we note that the jury was instructed “[a] bodily fluid is defined as a liquid that is produced by the human body” and the chaplain testified that Randall propelled a yellow-colored liquid at him, the liquid smelled like human urine, and he knew what urine smelled like

through his 20 years of experience providing care for people. We conclude that a rational juror could infer from this testimony that the substance that Randall threw onto the chaplain was a human bodily fluid. See NRS 212.189(1)(d). It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. See Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

Having considered Randall's contentions and concluded that he is not entitled to relief, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Steve L. Dobrescu, District Judge
State Public Defender/Carson City
State Public Defender/Ely
Attorney General/Carson City
Attorney General/Ely
White Pine County Clerk