

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEONARD ORVILLE FRANKLIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57355

**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 guilty plea, of lewdness with a child under 14 years of age. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

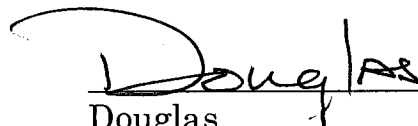
Appellant Leonard Orville Franklin's only contention on appeal is that the district court erred by denying his request for new counsel based on his dissatisfaction with counsel.

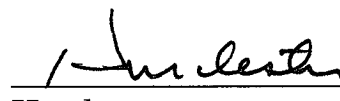
"We review the denial of a motion for substitution of counsel for abuse of discretion." Young v. State, 120 Nev. 963, 968, 102 P.3d 572, 576 (2004). A criminal defendant's mistrust must be "legitimate" before the trial court errs by refusing to remove counsel. See Daniels v. Woodford, 428 F.3d 1181, 1198 (9th Cir. 2005). We consider three factors when reviewing a denial of a motion for substitution of counsel. Young, 120 Nev. at 968, 102 P.3d at 576. First, Franklin's motion was timely. Second, we review "the adequacy of the inquiry." Id. Franklin's dissatisfaction gave rise to the district court conducting a lengthy in camera review of the claims. Third, we review the extent of the conflict. Id. Franklin contends that the district court disregarded his voiced lack of trust in counsel. However, when the court asked Franklin about his concerns, Franklin initially only discussed issues with the discovery he

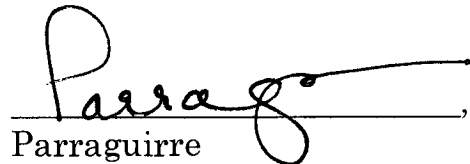
had been provided and defense counsel's investigation of the case. At one point, Franklin mentioned that he did not trust counsel. When the court inquired into this concern, he explained his lack of trust by pointing to perceived failings in counsel's pretrial investigation. In light of this explanation, the district court's response and determination was appropriate. After considerable in camera inquiry regarding the conflict, the district court found no legitimate reason for Franklin's request. We agree.

In considering the evidence presented and weighing the Young factors, we conclude that the district court did not abuse its discretion by denying Franklin's motion for substitution of counsel. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Steven P. Elliott, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk