

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM JAYE BOYCE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35258

**FILED**

JUL 26 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of manufacturing a controlled substance. The district court sentenced appellant to serve 18 to 60 months in prison.

Appellant's sole contention is that the district court abused its discretion in rejecting appellant's request to elect treatment pursuant to NRS 458.300. We disagree.

NRS 458.300 provides that, except under certain circumstances, "an alcoholic or a drug addict who has been convicted of a crime is eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs." If the court has reason to believe that a defendant is an alcoholic or drug addict, "or the person states that he is an alcoholic or drug addict, and the court finds that he is eligible to make the election provided for in NRS 458.300," the court must hold a hearing prior to sentencing to determine "whether or not he should receive treatment under the supervision of a state-approved facility for the treatment of abuse of alcohol or drugs." NRS 458.310(1). If, after the hearing, the court concludes that the "person is entitled to accept the treatment offered pursuant to NRS 458.310, the court shall order an approved

facility . . . to conduct an examination of the person to determine whether he is an alcoholic or drug addict and is likely to be rehabilitated through treatment." NRS 458.320(1). The court may reject the election of treatment if, "acting on the report or other relevant information," the court "determines that the person is not an alcoholic or drug addict, is not likely to be rehabilitated through treatment or is otherwise not a good candidate for treatment." NRS 458.320(2).

In this case, appellant filed a motion for civil commitment, arguing that he was eligible to elect treatment pursuant to NRS 458.300. Appellant provided his own affidavit in support of the motion, stating that he had a substance abuse problem, that he had no prior history that would make him ineligible, and that he believed he would benefit from and could satisfactorily complete a period of civil commitment. The State opposed the motion, arguing that treatment was not appropriate because appellant was in the business of manufacturing and selling methamphetamine and that appellant was not a drug addict.

The district court ordered a state-approved facility to evaluate appellant to determine whether he was a drug addict and was likely to be rehabilitated through treatment. The evaluator apparently concluded that appellant was a drug addict and that he would be a good candidate for rehabilitation.<sup>1</sup> Appellant also submitted a plan for a treatment program. Upon considering the report and the statements of appellant and counsel for appellant, the court commented:

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<sup>1</sup>Appellant has not provided this court with a copy of the report.

The Court finds that if the defendant is an alcoholic or drug addict, he is not likely to be rehabilitated based on this program. The Court would cite the chronic nature of the defendant's criminal activities, including selling and/or trafficking and/or manufacturing of these drugs.

The court then denied the motion for civil commitment and sentenced appellant. We conclude that appellant has not demonstrated that the district court abused its discretion.

See NRS 458.320(2). Accordingly, we

ORDER this appeal dismissed.

<u>Young</u>	J.
<u>Agosti</u>	J.
<u>Leavitt</u>	J.

cc: Hon. J. Michael Memeo, District Judge  
Attorney General  
Elko County District Attorney  
Elko County Public Defender  
Elko County Clerk