

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILLIP DWAYNE BUIE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61146

FILED

FEB 13 2013

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

ORDER OF AFFIRMANCE

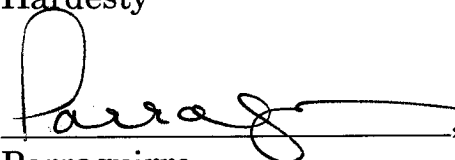
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of possession of a controlled substance not for the purpose of sale. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

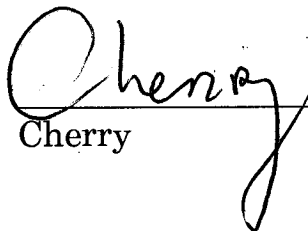
Appellant Phillip Buie argues that the district court violated his right to equal protection by denying his request for a continuance of the sentencing hearing based on his inability to pay for a drug diversion evaluation. "The Equal Protection Clause of the Fourteenth Amendment mandates that all persons similarly situated receive like treatment under the law." Gaines v. State, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000); see generally Iverson v. State, 107 Nev. 94, 100, 807 P.2d 1372, 1375 (1991) (noting that constitution is not violated merely because the same requirements are applied to the affluent as well as those with lesser means). Buie pleaded guilty on November 21, 2011, and sentencing was continued multiple times so that he could attempt to place himself in a diversionary program. On June 4, 2012, the district court rejected Buie's many explanations for why he had not yet had an evaluation performed—none of which were directly related to indigence—and concluded that it had given Buie ample opportunity to comply with the requirements necessary

for placement in such programs. See NRS 458.310. These findings are entitled to deference and, based on our review of the record, are not clearly erroneous. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We thereby conclude that Buie is not entitled to relief on this claim. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

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