

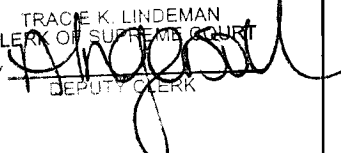
IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD CONFIDENT ABBOTT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62739

FILED

NOV 14 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of grand larceny. Eighth Judicial District Court, Clark County; Valorie J. Vega, Judge.

First, appellant Richard Confident Abbott contends that the district court erred by overruling his objection to the jury pool because the racial composition did not accurately represent the African-American population in Clark County. As a result, Abbott claims that his right to due process, equal protection, and a fair trial was violated. Abbott also contends that “the Clark County Jury Commissioner’s failure to maintain and produce statistics on the percentage of minorities typically represented in Clark County Jury Panels” violated his right to due process. Because Abbott fails to demonstrate that African Americans were systematically excluded from his jury pool, *see Williams v. State*, 121 Nev. 934, 940, 125 P.3d 627, 631 (2005), or that his due process rights were violated, *id.* at 942 n.18, 125 P.3d at 632 n.18 (“We do not hold at this time that being unaware of the composition of the jury pool is unconstitutional.”), we conclude that he is not entitled to relief.


Second, Abbott contends that the district court erred by granting the State's request to remove potential juror #178, an African American, for cause.¹ We disagree. "Great deference is afforded to the district court in ruling on challenges for cause primarily because such decisions involve factual determinations and the district court may observe a prospective juror's manner." *Browning v. State*, 124 Nev. 517, 530, 188 P.3d 60, 69-70 (2008). During voir dire, juror #178 told the prosecutor not only, "I hate courthouses," but also, "I can't promise you I will pay attention." Therefore, despite Abbott's attempt to rehabilitate juror #178, we conclude that the district court did not abuse its discretion by granting the State's request. See NRS 175.036(1); *Nelson v. State*, 123 Nev. 534, 543-44, 170 P.3d 517, 524 (2007) ("The test for determining if a veniremember should be removed for cause is whether a veniremember's views would prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath." (quotation marks omitted)).

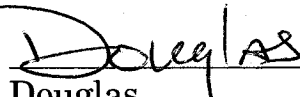
Third, Abbott contends that the district court erred by denying his motion to suppress evidence seized during a warrantless search of his residence without conducting an evidentiary hearing or making specific findings. We review the district court's factual findings regarding suppression issues for clear error and review the legal consequences of those findings de novo. See *Lamb v. State*, 127 Nev. ___, ___, 251 P.3d 700, 703 (2011). At a hearing on the motion, after brief arguments from counsel, the district court stated, "Between the Grand Jury transcript and


¹Abbott's reliance on *Batson v. Kentucky*, 476 U.S. 79 (1986), is misplaced because it does not apply to for-cause challenges. See *Hernandez v. New York*, 500 U.S. 352, 362-63 (1991).

the Preliminary Hearing transcript, the Court finds that an evidentiary hearing is unwarranted.” The district court stated that it was denying Abbott’s motion “pursuant to the Grand Jury transcript,” *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973), and *Stanley v. Georgia*, 394 U.S. 557 (1969). In light of the overwhelming evidence of Abbott’s guilt presented by the State during his trial, we conclude that any error by the district court in denying Abbott’s motion to suppress was harmless beyond a reasonable doubt and he is not entitled to relief. See *Chapman v. California*, 386 U.S. 18, 24 (1967); *Tavares v. State*, 117 Nev. 725, 732 n.14, 30 P.3d 1128, 1132 n.14 (2001), modified in part by *McLellan v. State*, 124 Nev. 263, 182 P.3d 106 (2008). Accordingly, we

ORDER the judgment of conviction AFFIRMED.²


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Valorie J. Vega, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²The fast track response does not comply with NRAP 3C(h)(1) and NRAP 32(a)(4) because the text in the body of the brief is not double-spaced. Counsel for the State is cautioned that the failure to comply with the briefing requirements in the future may result in the imposition of sanctions. See NRAP 3C(n).