

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAWN TRAMAZ JOHNSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 36013

**FILED**

**OCT 31 2002**

ORDER OF AFFIRMANCE

JANETIE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction pursuant to a guilty plea of one count of battery with intent to commit sexual assault.

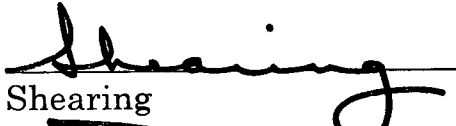
Appellant Shawn Johnson was charged with one count of sexual assault, one count of first degree kidnapping, and three counts of sexual assault with a minor under sixteen years of age. Johnson agreed to plead guilty to one count of battery with intent to commit sexual assault. The district court accepted Ferrell's guilty plea and ordered him to undergo a psychosexual evaluation. Thereafter, Johnson signed an informed consent form. Throughout the course of his psychosexual evaluation, Johnson maintained his innocence and denied forcing sexual relations on the fifteen-year-old female. The psychosexual evaluation concluded that denial of sexual assault is considered a significant risk factor in relapse risk and that defensive denial is viewed as one of the most serious impediments to effective treatment and safe sexual functioning. As a result, the Division of Parole and Probation's presentence investigation and report recommended that Johnson serve a maximum sentence and stated that he was a danger to the community and should receive no leniency from the district court. The district court sentenced Johnson to serve 180 months with parole eligibility after 72 months.

*Order corrected and  
re-mailed 10/31/02. JCR*

Johnson contends that his Fifth Amendment right against self-incrimination was violated when the district court considered his denial of guilt during the mandatory psychosexual evaluation pursuant to NRS 176.135(2)<sup>1</sup> in determining his sentence.

Pursuant to this court's decision in Dzul v. State,<sup>2</sup> we conclude that Johnson's Fifth Amendment right against self-incrimination was not violated. Accordingly, we affirm the judgment of conviction, and we find that Johnson's remaining issue on appeal is without merit.

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Shearing

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Becker

<sup>1</sup>NRS 176.135(2) states:

If a defendant is convicted of a felony that is a sexual offense, the presentence investigation and report:

(a) Must be made before the imposition of sentence or the granting of probation; and

(b) If the sexual offense is an offense for which the suspension of sentence or the granting of probation is permitted, must include a psychosexual evaluation of the defendant.

<sup>2</sup>118 Nev. \_\_\_, \_\_\_ P.3d \_\_\_ (Adv. Op. No. 71, ~~November~~ October 31, 2002).

gcr

cc: Hon. Donald M. Mosley, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Clark County Clerk