

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANIEL TERRELL WEATHERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67522

FILED

DEC 17 2015

THOMAS K. LINDEMAN
CLERK OF THE COURT
BY *[Signature]*
THE CLERK OF THE COURT

ORDER OF AFFIRMANCE


This is an appeal from a judgment of conviction entered pursuant to a jury verdict of one count of sexual assault, one count of coercion, and three counts of battery with the intent to commit a crime. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

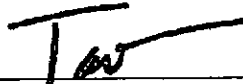
Appellant Daniel Weathers claims the district court violated his constitutional right to a jury venire selected from a fair cross-section of the community when it denied his motion to strike the entire venire. A defendant enjoys a constitutional right to a trial before a jury selected from a representative cross-section of the community. *Williams v. State*, 121 Nev. 934, 939, 125 P.3d 627, 631 (2005). The burden of demonstrating a prima facie violation of the fair-cross-section requirement rests with the defendant who must show

(1) that the group alleged to be excluded is a "distinctive" group in the community; (2) that the representation of this group in venires from which juries are selected is not fair and reasonable in relation to the number of such persons in the community; and (3) that this underrepresentation is due to systematic exclusion of the group in the jury-selection process.

Evans v. State, 112 Nev. 1172, 1186, 926 P.2d 265, 275 (1996) (quoting *Duren v. Missouri*, 439 U.S. 357, 364 (1979) (emphases added)). Here, Weathers failed to demonstrate a prima facie violation of the fair-cross-section requirement because he did not provide any evidence "that the jury selection process in Clark County systematically excludes African Americans from its jury selection process." *Williams*, 121 Nev. at 942, 125 P.3d at 632. Accordingly, we conclude the district court did not err by denying his motion to strike the entire venire, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Valerie Adair, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk