

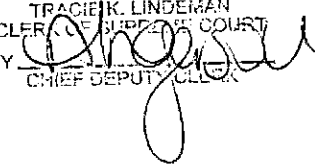
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAVON MICHAEL MIGUEL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67080

FILED

DEC 17 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of pandering of a child, first-degree kidnapping, and pandering by furnishing transportation. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Appellant Javon Miguel claims insufficient evidence supports his convictions for pandering of a child and first-degree kidnapping. He specifically asserts that the State did not present sufficient evidence to prove he inveigled, enticed, or compelled A.B. to become a prostitute or to continue to engage in prostitution and the State did not present sufficient evidence of his subjective intent at the time of the alleged acts to support the conviction for kidnapping.

When reviewing a challenge to the sufficiency of the evidence, we review the evidence in the light most favorable to the prosecution and determine whether “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). “[I]t is the function of the jury, not the appellate court, to weigh the evidence and pass upon the credibility of the witness.”

Walker v. State, 91 Nev. 724, 726, 542 P.2d 438, 439 (1975). And circumstantial evidence is enough to support a conviction. *Lisle v. State*, 113 Nev. 679, 691-92, 941 P.2d 459, 467-68 (1997), holding limited on other grounds by *Middleton v. State*, 114 Nev. 1089, 1117 n.9, 968 P.2d 296, 315 n.9 (1998).

A.B. testified she met Miguel at a park in Victorville, California. When A.B. asked Miguel what he was doing at the park, he responded that he was "just hanging out making money." A.B. believed that Miguel was a pimp based on Miguel's personality, the way he was dressed, and the amount of money he had. After disclosing to Miguel that she had previously engaged in prostitution, Miguel told her he made money doing prostitution and explained that he has girls who work for him and make money for him. Miguel told A.B. that if she wanted to work for him she could and if she did not want to she did not have to. Miguel gave A.B. a business card with his phone number written on it and said she could call him if she wanted to work for him. If she worked for him, Miguel said they could get an apartment, she could get a fake identification card, and she would make some money. A.B. responded that she was interested in working with him as a prostitute and arranged to meet Miguel the next day. Although A.B. was only 14 years old at the time, she told Miguel that she was 18 years old. She also told Miguel that she lived with her grandparents.

The following day, A.B. went to Miguel's home. Miguel asked A.B. if she wanted to make some money and go to Las Vegas. A.B. agreed and she and Miguel drove to Las Vegas later that day. While driving to Las Vegas Miguel and A.B. discussed A.B. making money working as a prostitute. Miguel said he would walk a short distance from her so he

could watch her and make sure that nothing happened to her, A.B. was to charge no less than \$100, and they would split the money she earned fifty-fifty. Miguel also told A.B. not to talk to black males because they would try to make her their prostitute. A.B. was also to avoid eye contact with black males. Miguel gave A.B. condoms and his phone number. Miguel advised A.B. that the condoms were for her protection when she goes on "dates" and told her if her "date" did not want to use a condom she could not have sex with him.

After arriving in Las Vegas, Miguel took A.B. to a McDonald's near the Stratosphere. A.B. walked between the McDonald's and the Stratosphere for approximately two hours. Although Miguel did not point out people for A.B. to approach, he did tell her to look for men with a lot of money, *i.e.* men who drove nice cars. Miguel told A.B. that if she got a "date" she should take the "date" to either a hotel room, which Miguel would pay for, or take him to Miguel's car to perform the sex act. During the two hour period, A.B. was approached by four men, but she did not engage in sex with any of them. Miguel then took A.B. to his friend's hotel room, where he and A.B. rested for a while. Sometime later, Miguel and A.B. returned to the same area near the Stratosphere, where A.B. again walked the area looking for "dates." This time A.B. was approached by three men. She did not engage in sex with any of them. At approximately 4:00 a.m., A.B. was walking to Miguel's car when she was stopped for jaywalking and because the officers believed she was approximately 12 or 13 years old and out past curfew. A.B. was taken into custody and her grandfather, who is her guardian, was called to retrieve her. The property on A.B. at the time of her arrest included three condoms and a business card with Miguel's phone number written on it.

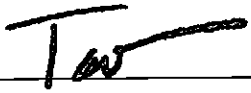
A.B. testified that she would not have agreed to work as a prostitute if Miguel had not told her he would help her make money and she would not have gone to Las Vegas to prostitute herself if Miguel had not suggested it.

A.B.'s grandfather testified that he did not know Miguel, did not give Miguel permission to take A.B. anywhere, and did not give Miguel permission to prostitute A.B. He further testified that when A.B. did not return home he filed a missing person's report with the police.

The jury could reasonably infer from the evidence presented that Miguel willfully induced, persuaded, encouraged, or enticed A.B., who was a child under the age of 18, to become a prostitute or to continue to engage in prostitution, *see* 2013 Nev. Stat., ch. 426, § 42, at 2430-31, and that Miguel led, took, enticed, or carried away A.B., a minor, with the intent to keep or confine her from her parents or guardians, or with the intent to hold A.B. to unlawful service, *see* NRS 200.310(1). It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. *See Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); *see also McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). Therefore, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Carolyn Ellsworth, District Judge
Brent D. Percival
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk