

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
CYNDI SELLERS,
Respondent.

No. 73053

FILED

NOV 15 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Youner
DEPUTY CLERK

ORDER OF AFFIRMANCE

The State appeals from a district court order granting in part Cyndi Sellers' pretrial petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Senior Judge.

Sellers was charged by criminal indictment with one count of conspiracy to use a credit card or a debit card or the identifying information on a card or account without the consent of the cardholder and ten counts of fraud by a person authorized to provide goods or services upon the presentation of a valid credit or debit card.


Sellers challenged the indictment in the court below, arguing, among other things, that she was only a dancer and had nothing to with the credit cards. In its response, the State asserted the evidence presented to the grand jury established Sellers was involved in a conspiracy and committed acts in furtherance of that conspiracy upon the victims as alleged in the indictment.


The district court noted the dancers were independent contractors, ordered further briefing as to whether NRS 205:780 applied to independent contractors, and subsequently granted Sellers' pretrial habeas petition, in part, by dismissing the fraud-by-a-person-authorized-to-


provide-goods-or-services-upon-the-presentation-of-a-valid-credit-or-debit-card counts against her. This appeal followed.

We defer to the district court's determination of factual sufficiency when reviewing pretrial orders on appeal. *See Sheriff, Clark Cty. v. Provenza*, 97 Nev. 346, 347, 630 P.2d 265, 265 (1981). Here, the district court found that Sellers was "not subject to the provisions of NRS 205.780 and the respective counts charged in the criminal indictment." We agree and conclude the district court did not err by granting in part Sellers' pretrial habeas petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Chief Judge, Eighth Judicial District Court
Hon. Joseph T. Bonaventure, Senior Judge
Attorney General/Carson City
Clark County District Attorney
John J. Graves, Jr., P.C.
Eighth District Court Clerk