

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
CELESTE MOHAR,
Respondent.

No. 73052

FILED

NOV 15 2017

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

ORDER OF AFFIRMANCE

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


Mohar 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 two counts of fraud by a person authorized to provide goods or services upon the presentation of a valid credit or debit card.


Mohar challenged the indictment in the court below, arguing, among other things, that she was only a dancer and NRS 205.780 did not apply to dancers because they do not have access to the credit card machines and they are not authorized to represent the value of their services to the issuer of the credit card. In its response, the State asserted the evidence presented to the grand jury established Mohar 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 Mohar's 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 Mohar 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 Mohar's 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
Goodman Law Group
Eighth District Court Clerk