

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY NIXON,

No. 36655

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

NOV 09 2001

JANE ITE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. P. [Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of first-degree kidnapping and burglary. The district court sentenced appellant Gary Nixon to serve life in prison with the possibility of parole after five years on the kidnapping charge, and a concurrent 16-72 months in prison on the burglary charge.

On appeal, Nixon contends that the district court improperly denied his motion to substitute counsel. Nixon also argues that the district court committed reversible error when it required Nixon to reveal defense strategy with the prosecution present during his pre-trial hearing. In addition, Nixon claims that the State failed to prove the intent element of its kidnapping charge. We conclude that all of Nixon's contentions lack merit.

While a defendant's right to have a lawyer of his or her own choosing is an essential element of the Sixth Amendment, this right is not absolute.<sup>1</sup> To the contrary, such a right "must not obstruct orderly judicial procedure and deprive courts of the exercise of their inherent power to control the administration of justice."<sup>2</sup> Thus, "[a] defendant is not entitled to reject his court-appointed counsel and request substitution of other counsel at public expense absent a showing of adequate cause for such a change."<sup>3</sup>

<sup>1</sup>Thomas v. State, 94 Nev. 605, 607, 584 P.2d 674, 676 (1978) (citing United States ex rel. Baskerville v. Deegan, 428 F.2d 714, 716 (2d Cir. 1970)).

<sup>2</sup>United States v. Gallop, 838 F.2d 105, 108 (4th Cir. 1988).

<sup>3</sup>Thomas, 94 Nev. at 607, 584 P.2d at 676 (citing Junior v. State, 91 Nev. 439, 441, 537 P.2d 1204, 1206 (1975)).

01-18789

Here, we conclude that Nixon failed to demonstrate adequate cause. Although Nixon and his attorney could not agree as to a trial defense, this did not preclude Nixon from offering alternative defenses. Further, Nixon's request was just 13 days from the scheduled trial date, and granting the motion for substitution would have likely necessitated a continuance of the trial date. As a result, we conclude that the district court did not abuse its discretion in denying the motion for substitution.

Nixon argues that the district court erred in requiring him to reveal defense strategy in the presence of the prosecution, but fails to support his argument with substantive legal authority. Our case law is clear that we need not consider novel propositions of law unsupported by relevant authority.<sup>4</sup>

Nixon also claims that the State failed to provide sufficient evidence to prove the intent element of the kidnapping charge. In reviewing a claim of insufficiency of the evidence, this court examines "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."<sup>5</sup>

Our review of the record on appeal here reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. Specifically, Jonathan Sharrer testified that Nixon grabbed his daughter, took her from the house, and began to carry her away. A rational trier of fact could deduce from this carrying away that Nixon intended "to keep, imprison, or confine [her] from [her] parents."<sup>6</sup> It is for the jury to determine the weight and credibility of the testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.<sup>7</sup>

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<sup>4</sup>See Cunningham v. State, 94 Nev. 128, 130, 575 P.2d 936, 937 (1978).

<sup>5</sup>Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

<sup>6</sup>NRS 200.310(1).

<sup>7</sup>See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981).

Having considered Nixon's arguments and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

Young J.  
Young

Agosti J.  
Agosti

Leavitt J.  
Leavitt

cc: Hon. Joseph T. Bonaventure, District Judge  
Attorney General  
Clark County District Attorney  
Clark County Public Defender  
Clark County Clerk