IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN LAWRENCE DIXON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78316-COA

ORDER OF AFFIRMANCE

Steven Lawrence Dixon appeals from a judgment of conviction entered pursuant to a jury verdict of driving under the influence (DUI) of intoxicating liquor with a prior felony conviction. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

First, Dixon argues the district court abused its discretion by denying his for-cause challenges to prospective jurors Patterson, Vanderweyden, Tangren, Westmoreland, and Loan. Dixon contends these jurors all had prior knowledge of, and experience with, persons that had driven while intoxicated and therefore were not impartial.

"District courts have broad discretion in deciding whether to remove prospective jurors for cause." *Weber v. State*, 121 Nev. 554, 580, 119 P.3d 107, 125 (2005) (internal quotation marks omitted), *overruled on other grounds by Farmer v. State*, 133 Nev. 693, 405 P.3d 114 (2017). "The test for evaluating whether a juror should have been removed for cause is whether a prospective juror's views would prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath." *Id.* (internal quotation marks omitted). A defendant is not entitled to relief "unless the defendant demonstrates both that he exhausted

all of his peremptory challenges and that an empaneled juror was unfair or biased." *Sayedzada v. State*, 134 Nev. 283, 293, 419 P.3d 184, 194 (Ct. App. 2018).

Dixon has not shown that bias or prejudice affected his right to an impartial jury. Dixon used peremptory challenges to remove prospective jurors Patterson and Westmorland and, therefore, is not entitled to relief based upon the denial of the for-cause challenges regarding those prospective jurors. *See Blake v. State*, 121 Nev. 779, 796, 121 P.3d 567, 578 (2005) ("If the jury actually seated is impartial, the fact that a defendant had to use a peremptory challenge to achieve that result does not mean that the defendant was denied his right to an impartial jury."). Considering the remaining prospective jurors, the record does not show that they harbored any "bias that would prevent [them] from applying the law or following the court's instructions." *Sayedzada*, 134 Nev. at 293, 419 P.3d at 194.

Prospective juror Vanderweyden informed the parties that he had friends that had been harmed by intoxicated drivers and acknowledged that he was "bitter" about one incident that resulted in the deaths of his friends. However, Vanderweyden stated he did not believe that would affect his consideration of this matter. Vanderweyden also stated he had no bias for or against either of the parties. The district court concluded Vanderweyden would not be biased and denied Dixon's for-cause challenge.

Prospective juror Tangren informed the parties that he had been struck by an intoxicated driver, but felt that accident was due to "karma" for his own DUI conviction. Tangren stated that he felt his DUI was his own fault and he had been irresponsible, but that he had learned from the experience. Tangren stated he could be fair, impartial, and would make a decision based upon the evidence and law. The district court stated

that it closely watched Tangren when he answered the parties' questions. The district court found Tangren would not be biased and denied Dixon's for-cause challenge.

Prospective juror Loan informed the parties that she was currently employed by the Bureau of Land Management and before that was employed as a forest protection officer with some legal training. Loan also stated that she could be fair if she served on the jury. Dixon challenged her for cause because she worked in a law enforcement capacity, but the district court denied the for-cause challenge.

Based on the district court's findings and the record before this court, Dixon failed to show that "an average person in the juror's situation would not be able to be unbiased." *Sayedzada*, 134 Nev. at 291, 419 P.3d at 192. Therefore, we conclude the district court did not abuse its discretion by denying Dixon's for-cause challenges. *See Blake*, 121 Nev. at 795, 121 P.3d at 577 (stating "the district court enjoys broad discretion in ruling on challenges for cause" because "such rulings involve factual determinations").

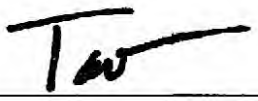
Second, Dixon argues the district court erred during the sentencing hearing by admitting a judgment of conviction into evidence after it had already pronounced sentence. The record reveals that after the district court orally pronounced sentence, the State moved to admit a judgment of conviction into evidence. Over Dixon's objection, the district court admitted the judgment of conviction. Dixon contends the district court lacked jurisdiction to admit the judgment of conviction because it had already sentenced Dixon.

However, "[c]ontrary to [Dixon's] contention, a district judge's pronouncement of judgment and sentence from the bench is not a final

judgment and does not, without more, oust the district court of jurisdiction over the defendant." *Miller v. Hayes*, 95 Nev. 927, 929, 604 P.2d 117, 118 (1979). A sentence is not final until a judgment of conviction is signed by the district court judge and entered by the court clerk. *Id.* The district court's oral pronouncement of sentence did not constitute a final judgment and, therefore, the district court still had jurisdiction to accept Dixon's prior judgment of conviction into evidence. Therefore, Dixon is not entitled to relief based upon this claim. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Gibbons



_____, J.
Tao

_____, J.
Bulla

cc: Hon. Michael Montero, District Judge
Humboldt County Public Defender
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk