IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMIE MERIE LAMBDIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78542-COA

ORDER OF AFFIRMANCE

Jamie Merie Lambdin appeals from a judgment of conviction entered pursuant to a jury verdict of establishing or possessing a financial forgery laboratory, possession of a forged instrument, and possession of a controlled substance. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Lambdin claims the district court erred by partially denying her pretrial motion to suppress statements she made during a police interrogation. She argues that she unequivocally invoked her right to counsel and she did not initiate further communication with the detectives after invoking her right to counsel. We review the district court's factual findings regarding suppression issues for clear error and review the legal consequences of those findings de novo. *See Lamb v. State*, 127 Nev. 26, 31, 251 P.3d 700, 703 (2011).

Edwards v. Arizona, 451 U.S. 477 (1981), sets forth a bright-line rule that all interrogation must cease after the accused requests counsel and, after the accused has requested counsel, the rule may only be waived if the accused initiates subsequent communication. *Solem v. Stumes*, 465 U.S. 638, 646 (1984). "[T]he term 'interrogation' . . . refers not

only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response." *Rhode Island v. Innis*, 446 U.S. 291, 301 (1980).

Here, the district court conducted a suppression hearing and made the following findings. Lambdin was advised of her *Miranda*[1] rights both at the hotel room and in the interview room. Lambdin invoked her right to counsel when she said, "Can I have a lawyer here, I don't have nothing else to say. I don't know what you guys are talking about so, just gimme a lawyer." The detectives gathered their belongings and began to exit the room. But before they could do so, Lambdin began questioning them about the evidence they had to support the charges. Lambdin demonstrated a desire to discuss the investigation without the assistance of counsel. There was no improper coercive conduct because Lambdin was leading the conversation and the detectives were providing basic responses. And, consequently, Lambdin waived her right to counsel and did so in a knowing, voluntary, and intelligent manner.

The district court further found that Lambdin made a second attempt to invoke her right to counsel but that invocation was ambiguous. When responding to a detective's inquiry as to whether she wanted counsel, Lambdin stated, "Well because that's bullshit, *I guess, yeah*, but I just wanna know what the hell you're talking about because I don't, I don't, okay listen, I don't do fraud like that, you know what I'm saying? I don't do no fraud like that." The district court also found that even if this could be interpreted as an invocation, Lambdin knowingly, voluntarily, and

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[1]*Miranda v. Arizona*, 384 U.S. 436 (1966).

intelligently waived her right to counsel by reinitiating discussion about the investigation and insisting she does not do "fraud like that." The district court ultimately found that Lambdin's third invocation of her right to counsel was unequivocal and the detectives impermissibly continued the interrogation.

The district court's findings are supported by the record and are not clearly wrong. We conclude that Lambdin's first invocation of her right to counsel was clear and unambiguous. However, Lambdin waived this invocation of the right to counsel by initiating a discussion with the detectives about the investigation. *See Oregon v. Bradshaw*, 462 U.S. 1039, 1044-45 (1983). And Lambdin's second attempt to invoke her right to counsel was ambiguous and therefore the detectives were not required to cease their interrogation. *See Davis v. United States*, 512 U.S. 452, 459 (1994); *Harte v. State*, 116 Nev. 1054, 1066, 13 P.3d 420, 428 (2000). Therefore, we further conclude the district court did not err by partially denying Lambdin's pretrial suppression motion, and we

ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc: Hon. Elliott A. Sattler, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk