IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT BUFORD, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42175

FILED

APR 0 6 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Richards
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one felony count of pandering. The district court sentenced appellant Robert Buford, Jr., to serve a prison term of 12-34 months, with 135 days credit for time served.

First, Buford contends that the district court committed "constitutional" reversible error by denying his challenge to a prospective juror for cause. Buford argues that Juror 277, an FBI analyst, was biased and partial because she initially "equivocated as to her ability not to give additional credence to law enforcement witnesses." The district court denied the challenge for cause, ruling that the juror proved she could be fair and impartial. We conclude that Buford is not entitled to relief.

NRS 175.036(1) states that "[e]ither side may challenge an individual juror for disqualification or for any cause or favor which would prevent him as a juror from adjudicating the facts fairly." A trial court has broad discretion in ruling on challenges for cause, and if a potential juror's responses are equivocal or conflicting, this court defers to the trial court's determination of the juror's state of mind.[1] A trial court's

[1]Walker v. State, 113 Nev. 853, 865, 944 P.2d 762, 770 (1997) (citing Wainwright v. Witt, 469 U.S. 412, 428-29 (1985)).

determination that a juror is fair and impartial will be upheld if supported by substantial evidence.[2] Additionally, on appeal, a party must demonstrate prejudice as a result of the trial court's denial of the challenge.[3] This court has stated that "[i]f the impaneled jury is impartial, the defendant cannot prove prejudice."[4]

We conclude that even if the district court erred in refusing to excuse the prospective juror for cause, Buford failed to demonstrate that he was prejudiced by the district court's ruling because Juror 277 did not ultimately serve on the jury. At the close of voir dire, Buford: (1) used his first peremptory challenge to remove Juror 277; (2) accepted the jury panel; (3) made no request for additional peremptory challenges; and (4) failed to demonstrate "that any other jurors proved unacceptable and would have been excused had an additional peremptory challenge been available."[5] Therefore, we conclude that Buford's contention is without merit.

Second, Buford contends that the evidence presented at trial was insufficient to support the jury's finding that he was guilty beyond a reasonable doubt of pandering.[6] Buford admits that he believed the

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[2]See id. at 866-67, 944 P.2d at 771.

[3]See Thompson v. State, 102 Nev. 348, 350, 721 P.2d 1290, 1291 (1986).

[4]Wesley v. State, 112 Nev. 503, 511, 916 P.2d 793, 799 (1996).

[5]Hernandez v. State, 118 Nev. 513, 534 n.53, 50 P.3d 1100, 1114 n.53, cert. denied 537 U.S. 1197 (2003) (quoting Thompson, 102 Nev. at 350, 721 P.2d at 1291).

[6]NRS 201.300 (defining "pandering," in part, as inducing, persuading, encouraging, inveigling, enticing, or compelling someone to become a prostitute or to continue being a prostitute).

undercover vice-squad police officer was a prostitute, however, he points out that the officer testified at trial that Buford never offered her money, attempted to introduce her to any men, offered to be her pimp, asked her to work for him, or asked her to have sex with him or anyone else.

Our review of the record on appeal reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact.[7] Las Vegas Metropolitan Police Department Officer Jennifer Osborn testified that she was working undercover as a prostitute at the MGM Hotel when she met Buford. Officer Osborn stated that Buford inquired as to what she was doing, and then proceeded to instruct her about how to approach potential clients. Buford asked Officer Osborn how much she charged for sex, and when informed by the officer that she charged $500.00, he stated that he could double her salary and improve her living conditions. Buford informed Officer Osborn that he could "teach her the game," which, according to Officer Osborn, was a term used to describe "the pimp/prostitution subculture as a whole." Buford also told Officer Osborn to go with him to another casino hotel that night in order to "work the carpet," and that if she were ever arrested, he would bail her out of jail.

Based on the above, we conclude that the jury could reasonably infer from the evidence presented that Buford committed the crime of pandering. It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, sufficient evidence supports the

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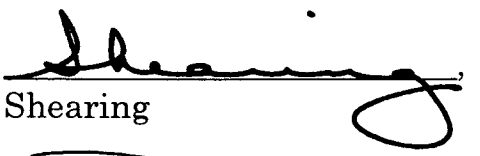
[7]See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Mason v. State, 118 Nev. 554, 559, 51 P.3d 521, 524 (2002) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

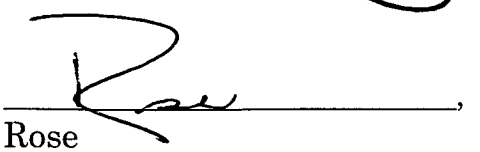
verdict.[8] We also note that circumstantial evidence alone may sustain a conviction.[9] Therefore, we conclude that the State presented sufficient evidence to sustain the conviction.

Having considered Buford's contentions and concluded that they are without merit, we

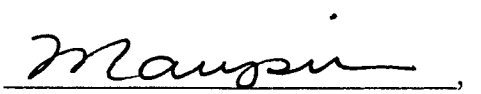
ORDER the judgment of conviction AFFIRMED.



_____, C.J.
Shearing



_____, J.
Rose



_____, J.
Maupin

cc: Hon. Jackie Glass, District Judge
Clark County Public Defender
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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[8]See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

[9]See Buchanan v. State, 119 Nev. ___, ___, 69 P.3d 694, 705 (2003).