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See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 06/21/2011
RUTH A. WILLINGHAM,
CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) 1 CA-CR 10-0497
)
Appellee,) DEPARTMENT D
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
RONALD EUGENE BRADFORD,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-165152-001DT

The Honorable Julie P. Newell, Commissioner

AFFIRMED

Thomas C. Horne, Attorney General Phoenix
By Kent E. Cattani, Chief Counsel
Criminal Appeals Section/Capital Litigation Section
And Michael J. Mitchell, Assistant Attorney General
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
By Margaret M. Green, Deputy Public Defender
Attorneys for Appellant

O R O Z C O, Judge

¶1 Ronald Eugene Bradford (Defendant) appeals the trial court's denial of his motion for judgment of acquittal on the charge of pandering. For the reasons that follow, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Defendant was indicted on one count of pandering, a class five, non-dangerous felony. Officer O. was posing as a prostitute when Defendant approached her and asked her if she was "working."¹ Officer O. testified:

He asked me if I had a pimp, or if I was working for anyone previously. I told him that I was, that I had a pimp in California where I used to live. . . . He told me that he had jewelry that he would give me if I would work for him, and I could come to his house and get the jewelry if I decided to work for him. He also told me he had a girl that worked for him named Lisa

¶3 Defendant left the scene, but returned ten to fifteen minutes later and had a second conversation with Officer O. Officer O. further testified:

He told me I should work at a strip club to get clients in order to make more money, and I could work for him at night in front of his house at 7th Street and McDowell and turn tricks in front of his house.²

Officer O. asked Defendant how much money she would have to pay him for his protection, stating that she would not "have sex

¹ To ask a person if they are "working" is known by law enforcement as a way of asking if the person is a prostitute.

² The phrase, to "turn tricks," is known by law enforcement as meaning to work as a prostitute.

with people and expect his protection for less than" a 70/30 percent split, to which Defendant replied, "okay, okay, you can just come back to my house." At the end of the second conversation, Defendant told Officer O., "Don't be getting into any other cars, you work for me now."

¶4 A team of other officers were monitoring both conversations from a remote location via an electronic communication device. Detective C. and Sergeant R. both testified that they observed and were able to listen in on the conversations between Officer O. and Defendant. Detective C. and Sergeant R. both corroborated Officer O.'s testimony regarding those conversations. Detective C. directed officers to place Defendant under arrest subsequent to his second conversation with Officer O.

¶5 After the State rested, Defendant moved for judgment of acquittal, arguing that the State failed to present "substantial evidence to warrant a conviction." Additionally, Defendant argued that the anti-pandering statute is inapplicable in this case because Officer O. was already holding herself out as a prostitute; and thus, it cannot be said that Defendant "knowingly compelled, induced, or encouraged someone to lead a life of prostitution." The motion was denied.

¶6 A jury found Defendant guilty, and he was sentenced to five years' imprisonment. Defendant timely appealed and we have

jurisdiction in accordance with Article 6, Section 9, of the Arizona Constitution, and Arizona Revised Statutes (A.R.S.) sections 12-120.21.A.1. (2003), 13-4031, and -4033.A. (2010).

DISCUSSION

¶17 Defendant argues that *State v. Rodgers*, 134 Ariz. 296, 655 P.2d 1348 (App. 1982) was wrongly decided, and we should revisit and overturn our decision in that case. Defendant also argues that the State failed to present substantial evidence at trial; and as such, the trial court erred when it denied Defendant's motion for judgment of acquittal. We review the trial court's decision on a motion for judgment of acquittal de novo, "viewing the evidence in a light most favorable to sustaining the verdict." *State v. Bible*, 175 Ariz. 549, 595, 858 P.2d 1152, 1198 (1993). "If reasonable minds could differ as to whether the properly admitted evidence, and the inferences therefrom, prove all elements of the offense, a motion for acquittal should not be granted." *Id.*

¶18 In support of the proposition that the *Rodgers* case was wrongly decided, Defendant asserts "[t]he context of the statute suggests that the legislature was concerned with recruiting . . . innocent people to begin to prostitute themselves." Defendant continues, "[a] common sense reading [of the statute], then, is contrary to the holding in *Rodgers*."

¶9 In *Rodgers*, we read A.R.S. § 13-3209 as not requiring a showing that the "prostitute involved was forced into prostitution." *Rogers*, 134 Ariz. at 305, 655 P.2d at 1357. "Rather, it was sufficient to show that the defendant encouraged the individual to lead a life of prostitution." *Id.* In reaching this conclusion, we noted the most recent "revision of the criminal code introduced a change in the law pertaining to what comprised the crime of pandering." *Id.* Formerly, the statute "and cases construing that section required a showing of restraint, compulsion or force." *Id.* Because the most recent revision of the law added the words "induce or encourage," the law as amended reflects the Legislature's intent to expand "the type of activity which can be illegal as defined by the statute proscribing pandering." *Id.*

¶10 Thus, as a matter of law, the anti-pandering statute applies even in cases where the subject of pandering is already practicing prostitution. As such, the statute was properly applied in this case and we decline Defendant's invitation to overturn *Rodgers*.

¶11 Second, Defendant argues that there was not substantial evidence to warrant submitting the case to the jury. "Substantial evidence is that which reasonable persons could accept as sufficient to support a guilty verdict beyond a reasonable doubt." *State v. Davolt*, 207 Ariz. 191, 212, ¶ 87, 84

P.3d 456, 477 (2004); accord *State v. Tison*, 129 Ariz. 546, 553, 633 P.2d 355, 362 (1981) (substantial evidence is "more than a scintilla and is such proof as a reasonable mind would employ to support the conclusion reached"). "If reasonable persons may fairly differ as to whether certain evidence establishes a fact in issue, then such evidence must be considered as substantial." *Davolt*, 207 Ariz. at 212, ¶ 87, 84 P.3d at 477 (quotation marks and citation omitted).

¶12 The crime of pandering involves "[a] person . . . who knowingly . . . [c]ompels, induces or encourages any person to lead a life of prostitution." A.R.S. § 13-3209.4. "Knowingly means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists." A.R.S. § 13-105.10(b).

¶13 In this case, Defendant's statements to Officer O. illustrate his objective to compel, induce, or encourage her to prostitute herself. Defendant offered Officer O. jewelry and a safe location for her to "turn tricks" if she would work for him. Defendant indicated that a profit-sharing arrangement would be expected if Officer O. agreed to work for him as a prostitute, and he closed the discussion by telling Officer O., "you work for me now." Thus, Defendant's objective was to have Officer O. prostitute herself under his protection.

¶14 Moreover, Defendant's statements to Officer O. also illustrate that his mental state was one of "knowing." Defendant asked Officer O. if she was "working." Defendant also asked Officer O. if she had a pimp and told her that he was a pimp for another girl named Lisa. These statements indicate that Defendant was aware of the nature of the conduct being discussed. Thus, Defendant knowingly negotiated with Officer O. regarding prostitution.

¶15 Therefore, substantial evidence supports the trial court's decision denying the motion for judgment of acquittal.

CONCLUSION

¶16 For the forgoing reasons, we affirm Defendant's conviction and sentence.

/S/

PATRICIA A. OROZCO, Judge

CONCURRING:

/S/

PATRICIA K. NORRIS, Presiding Judge

/S/

JOHN C. GEMMILL, Judge