IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA BLONDIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53906

FILED

SEP 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of unlawful use of a controlled substance. Fifth Judicial District Court, Mineral County; John P. Davis, Judge.

Appellant Lisa Blondin argues that the district court erred by denying her motion to suppress drug screen results and a post-arrest confession concerning marijuana use. When presented with a Fourth Amendment search and seizure issue on appeal, this court reviews the district court's factual findings for clear error and its legal conclusions based on those facts de novo. Somee v. State, 124 Nev. 434, 441, 187 P.3d 152, 157-58 (2008).

With regard to the drug screen results, the State Department of Child and Family Services (DCFS) requested that Blondin provide a urine sample pursuant to a court order entered in an NRS Chapter 432B civil child protective matter. Blondin consented.[1] Although Blondin was

[1]Although Blondin argues that she was told that she had to provide the urine sample, evidence in the record demonstrates that she consented to DCFS's request for the drug screening.

not told that the test results would be provided to the police, she was tested at the police station and there is no evidence that DCFS requested that Blondin provide the sample as a pretext for finding a criminal violation. Instead, remaining drug free was part of her civil case plan and law enforcement officers initiated contact with Blondin at her residence based on reports of potential child abuse. The investigating officer then notified DCFS of the situation since DCFS had prior involvement with Blondin and her family. Thus, because the drug screening was not initiated with the "primary purpose . . . to detect evidence of ordinary criminal wrongdoing," Indianapolis v. Edmond, 531 U.S. 32, 38 (2000), and Blondin consented to the screening, the State's failure to warn Blondin that the drug screen might result in criminal charges does not render the test inadmissible in a criminal prosecution. Compare United States v. Prudden, 424 F.2d 1021, 1033 (5th Cir. 1970), and United States v. Squeri, 398 F.2d 785, 788 (2d Cir. 1968) (explaining, in the criminal tax evasion context, that a taxpayer whose tax returns are under audit is on notice of the possibility of criminal prosecution regardless of whether tax agents contemplate civil or criminal action or warn the taxpayer of possible criminal prosecution), with Ferguson v. Charleston, 532 U.S. 67, 72-73 (2001) (striking down a hospital's program of collecting and screening, without consent, pregnant mothers' urine without individualized suspicion of drug use because the immediate objective of the searches was to generate evidence for law enforcement purposes). Accordingly, the State did not violate Blondin's Fourth Amendment rights and the district court properly denied her suppression request.

As for the post-arrest confession, it is undisputed that Blondin was in custody when she made the incriminating statement. Although

Blondin argues that her confession resulted from police interrogation, and is thus inadmissible evidence since she had not been advised of her Fifth Amendment privilege against self-incrimination at the time, see Floyd v. State, 118 Nev. 156, 171-172, 42 P.3d 249, 259-60 (2002) (citing Miranda v. Arizona, 384 U.S. 436 (1966)), abrogated on other grounds by Grey v. State, 124 Nev. 110, 178 P.3d 154 (2008), substantial evidence supports the district court's finding that Blondin's confession was offered without law enforcement inducement, and was therefore admissible evidence. See Archanian v. State, 122 Nev. 1019, 1038, 145 P.3d 1008, 1022 (2006) (describing interrogation); Chambers v. State, 113 Nev. 974, 981, 944 P.2d 805, 809 (1997) (whether a confession is admissible is primarily a factual determination addressed to the district court, and this court will not disturb the district court's decision to admit a confession so long as the decision is supported by substantial evidence). Accordingly, we conclude that Blondin has failed to demonstrate that the district court erred by denying her motion to suppress evidence, and we

ORDER the judgment of conviction AFFIRMED.

/ Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. John P. Davis, District Judge
Stephen B. Rye
Attorney General/Carson City
Mineral County District Attorney
Mineral County Clerk