IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON WILLIAM DOBBS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89954

FILED

AUG 14 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of seven counts of use or permit minor, under age 14, to be the subject of a sexual portrayal in a performance and one count of possession of a visual presentation depicting the sexual conduct of a person under 16 years of age. Second Judicial District Court, Washoe County; Kathleen M. Drakulich, Judge.

Appellant Jason William Dobbs and Jayme Hubbard were in a romantic relationship in high school. After Dobbs and Hubbard ended their relationship, Hubbard entered into a different relationship where she had three daughters. When that relationship ended, Dobbs and Hubbard, both living in Florida, reconnected and moved in together.

While in Florida, Hubbard began to feel unsettled by Dobbs's actions towards her daughters. At one point, Hubbard noticed the camera on Dobbs's laptop was on, pointing at the bed where she was lying. Additionally, Hubbard's oldest daughter—who was nine years old at the time—told Hubbard that she and her younger sister were showering in the master bathroom when they noticed Dobbs's phone around the corner of the wall, pointing at them. Hubbard confronted Dobbs about the incident, which he denied having occurred.

Hubbard's oldest daughter also told Hubbard that Dobbs would enter her bedroom while he thought she was asleep and pulled up the waistband on her pants to take pictures of her.

In 2020, the family moved to Sparks, Nevada, where Dobbs and Hubbard rented a home. In the living room, Dobbs kept his desk and computer, as well as several flash drives and external hard drives. All members of the family used the living room and had access to the desk. Sometime after moving into their Sparks home, Hubbard noticed more unsettling incidents involving Dobbs and her daughters. As a result, while Dobbs was away from the house, Hubbard unscrewed the hard drives from the computer, disconnected the flash drives from the computer's tower, and went to the police station.

At the station, Hubbard signed a Consent to Search form and provided Lt. Cox the devices with the intention they be searched for illicit photos of Hubbard's daughters. Lt. Cox subsequently testified that "in [his] mind it was clear that she had mutual possession or ownership of the devices." Lt. Cox booked the devices and submitted them for a forensic examination to determine if there was child exploitation and abuse material. A digital forensic software search of one of the devices yielded child sexual abuse material on the drive and Hubbard confirmed the images were of her daughters. After finding the images and confirming the identities of the children in the photographs, law enforcement applied for a search warrant for the processed device and the rest of the devices.

Based on the foregoing, Dobbs was charged with various offenses. Dobbs then filed a motion to suppress the evidence obtained in the initial warrantless search of the devices provided by Hubbard. Dobbs argued Hubbard did not have either actual or apparent authority to consent

to a search of the devices. The district court denied the motion, thoroughly analyzing the issues, and providing detailed reasoning behind what facts it took under consideration. Dobbs changed his plea to guilty but reserved his right to challenge the denial of his motion to suppress on direct appeal from his judgment of conviction.

Dobbs raises the same argument on appeal as he raised below—Hubbard could not consent to a search of his devices, and therefore the warrantless search was unreasonable. We review a district court's determination regarding authority to consent to a search de novo because it "requires consideration of both factual circumstances and legal issues." *State v. Taylor*, 114 Nev. 1071, 1078, 968 P.2d 315, 321 (1998) (citing *United States v. Kim*, 105 F.3d 1579, 1581 (9th Cir. 1997)). "The burden of establishing [actual or apparent] authority rests upon the State." *Illinois v. Rodriguez*, 497 U.S. 177, 181 (1990). "Warrantless searches 'are *per se* unreasonable . . . subject only to a few specifically established and well-delineated exceptions.'" *State v. Lloyd*, 129 Nev. 739, 743, 312 P.3d 467, 469 (2013) (quoting *Katz v. United States*, 389 U.S. 347, 357 (1967)).

We first consider whether Hubbard had actual authority to consent to the search of the devices. As an exception to the warrant requirement, actual authority "is the valid consent of a third party who possesses actual authority over or other sufficient relationship to the premises or effects sought to be inspected." *Taylor*, 114 Nev. at 1079, 968 P.2d at 321 (citing *United States v. Matlock*, 415 U.S. 164, 171 (1974)). Actual authority exists "(1) where defendant and a third party have mutual use of and joint access to or control over the property at issue, or (2) where defendant assumes the risk that the third party might consent to a search of the property." *Id.* Despite cohabitating with Hubbard, Dobbs took efforts

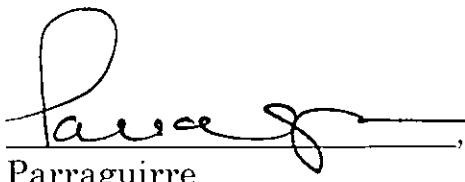
to protect his individual privacy by password protecting the devices. However, Dobbs may have assumed the risk that Hubbard might consent to a search of the drives. Indeed, he left the devices unsecured on a desk in a room that Hubbard and the family members had total access to—rather than in a locked drawer or container or in a room to which access was specifically restricted. Nonetheless, we agree with the district court's conclusion that Hubbard did not have actual authority to consent to the search.

Even if a party does not have actual authority to consent to a search, they may nonetheless have apparent authority if "the facts available to the officer at that moment warrant a person of reasonable caution to believe that the consenting party had authority over the property." *Id.* at 1080, 968 P.2d at 322 (citing *Rodriguez*, 497 U.S. at 188). "Whether an individual has apparent authority to consent to a search must be judged against an objective standard, namely, would the facts available to the officer *at that moment* warrant a person of reasonable caution to believe that the consenting party had authority over the property." *Id.* (emphasis added).

We agree with the district court in concluding Hubbard had apparent authority to consent to a search of the devices. Hubbard brought the devices to the police station, shared her suspicions, and signed a waiver for their search. It is evident from the record Lt. Cox reasonably assumed Hubbard had, at that moment, at least joint control over the devices, because they were physically accessible and in Hubbard's possession, and Hubbard was not expressly prohibited from accessing the content on the devices. Thus, because Hubbard had apparent authority to consent to the

search, the district court did not err in denying the motion to suppress. Accordingly, we

ORDER the judgment of the district court AFFIRMED.



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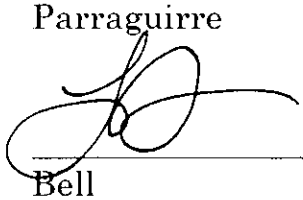

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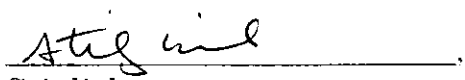

_____, J.
Stiglich

cc: Hon. Kathleen M. Drakulich, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk