IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM RAHKEED WARREN A/K/A WILLIE RAHKEED WARREN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42916

FILED

MAR 22 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of conspiracy to commit robbery, one count of burglary while in possession of a deadly weapon, and one count of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant William Warren contends that the district court abused its discretion by (1) disallowing evidence that one of the State's witnesses used drugs with Warren, (2) allowing two State witnesses to impermissibly vouch for the victims' credibility, and (3) allowing the State to show a headshot picture of Warren to the jury during rebuttal closing arguments. He also contends that the cumulative effect of the errors entitles him to a new trial. Although we agree with Warren that the district court abused its discretion with respect to the first three contentions above, we conclude that the errors were harmless.

Impeachment evidence

Warren contends that the district court abused its discretion by disallowing evidence that one of the State's witnesses used drugs with Warren. Although the district court has wide discretion to control cross-examination or impeachment evidence, the discretion is limited "where

bias is the object to be shown, and an examiner must be permitted to elicit any facts which might color a witness's testimony."[1]

Here, Warren was entitled to introduce evidence to impeach the State's witness, Robert Sacca. The impeachment evidence would have referred to a specific incident of alleged drug abuse to establish bias. Therefore, the district court abused its discretion by limiting the impeachment.

We conclude the error was harmless beyond a reasonable doubt and that the jury's verdict would not have been affected by the admission of the evidence.[2] The probative value of the evidence to show motive and bias was substantially diminished by the fact that Jeff Hoepner's relationship with Sacca was well established through other testimony.

Credibility vouching

Warren contends that two State witnesses impermissibly vouched for the victims' credibility. Generally, a party's failure to object "precludes appellate consideration of an issue."[3] Notwithstanding the failure to object, "this court has the discretion to address an error if it was plain and affected the defendant's substantial rights."[4] The defendant has

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[1]Bushnell v. State, 95 Nev. 570, 572, 599 P.2d 1038, 1040 (1979).

[2]Chapman v. California, 386 U.S. 18, 24 (1967).

[3]Gallego v. State, 117 Nev. 348, 365, 23 P.3d 227, 239 (2001).

[4]Id.; NRS 178.602.

the burden of establishing that the error affected his substantial rights by showing that the error was prejudicial.[5]

Warren contends that the testimony of Officers Swartwood and Kuzik was prejudicial because they testified as to the truthfulness of Heidi Abinales' and Hoepner's statements on the night of the incident. Although we conclude that the officers' statements went to the truthfulness or character of Abinales or Hoepner and the information elicited by the State was not necessary to explain how the investigation was conducted, the officers' remarks were not prejudicial to the defense or affected the outcome of his trial. Therefore, this error was harmless. Furthermore, Warren failed to preserve this issue for appeal. Warren's counsel did not object to the State's line of questioning of the officers.

Photograph

Warren contends that the district court abused its discretion by allowing the State to show the jury a headshot picture of Warren during rebuttal closing arguments. The photograph in question was not admitted into evidence.

However, we conclude that the district court's failure to admit the picture into evidence was harmless beyond a reasonable doubt. It is clear from the evidence presented at trial that the jury would have found Warren guilty in the absence of the error. The State's failure to show the pictures to Warren's counsel prior to closing arguments and the failure to offer them into evidence constituted harmless error beyond a reasonable

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[5]Gallego, 117 Nev. at 365, 23 P.3d at 239; see United States v. Olano, 507 U.S. 725, 734-35 (1993).

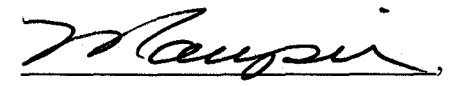
doubt because the jury would have found Warren guilty absent the mistake.

Cumulative error

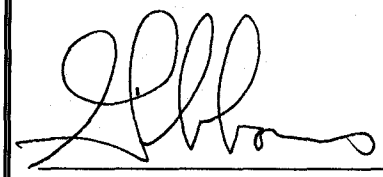
Finally, Warren argues that the cumulative effect of the errors entitles him to a new trial. Cumulative error may justify the order of a new trial even if the errors, standing alone, are harmless.[6] We conclude that although the district court committed the errors discussed above, they do not constitute cumulative error. Thus, Warren is not entitled to a new trial under the cumulative error doctrine.

We have considered Warren's remaining contentions and find them to be without merit. Accordingly, we

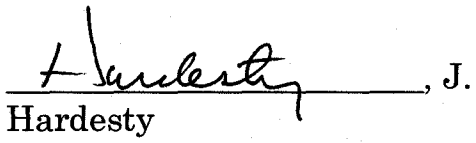
ORDER the judgment of the district court AFFIRMED.



, J.
Maupin



, J.
Gibbons



, J.
Hardesty

cc: Hon. Michelle Leavitt, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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[6]See, e.g., Byford v. State, 116 Nev. 215, 241-42, 994 P.2d 700, 717 (2000); Sipsas v. State, 102 Nev. 119, 125, 716 P.2d 231, 235 (1986).