

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIA C. KENDRICK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43160

**FILED**

NOV 15 2004

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of conspiracy to commit burglary, three counts of burglary, and one count of grand larceny. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge. The district court sentenced appellant Maria C. Kendrick to serve a jail term of 12 months for the conspiracy count, a concurrent prison term of 24 to 120 months for the first burglary count, a consecutive prison term of 22 to 96 months for the second burglary count, a concurrent prison term of 12 to 48 months for the grand larceny count, and a concurrent prison term of 12 to 96 months for the third burglary count.

Kendrick first contends that there was insufficient evidence in support of her convictions. Specifically, Kendrick alleges that there was no eyewitness testimony establishing that she was in the hotel rooms at the time of the burglaries and no one ever saw her with the victims' luggage or purses. Additionally, citing to Sheriff v. Dhadda,<sup>1</sup> Kendrick

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<sup>1</sup>115 Nev. 175, 980 P.2d 1062 (1999).

argues that she was convicted for the third burglary based solely on her confession because there was insufficient corroborating evidence presented. We conclude that Kendrick's contentions lack merit.

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.<sup>2</sup> In particular, the jury could reasonably infer from the evidence presented, including the testimony of the victims and the law enforcement officers who investigated the burglaries, that Kendrick committed the charged offenses. 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, substantial evidence supports the verdict.<sup>3</sup>

Kendrick also contends that the district court erred in admitting prior bad act evidence showing that she knew how to open hotel room doors with a butter knife because it was more prejudicial than probative. We conclude that Kendrick's contention lacks merit.

NRS 48.045(1) provides that evidence of other wrongs cannot be admitted at trial solely for the purpose of proving that the defendant acted in a similar manner on a particular occasion. But NRS 48.045(2) provides that such evidence may be admitted for other purposes, "such as

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<sup>2</sup>See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998).

<sup>3</sup>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).

proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Before admitting such evidence, the trial court must conduct a hearing on the record and determine: (1) that the evidence is relevant to the crime charged; (2) that the other act is proven by clear and convincing evidence; and (3) that the probative value of the other act is not substantially outweighed by the danger of unfair prejudice.<sup>4</sup> On appeal, we will give great deference to the trial court's decision to admit or exclude evidence and will not reverse the trial court absent manifest error.<sup>5</sup>

Here, the trial court conducted a hearing, outside the presence of the jury, on the admissibility of the prior bad act evidence. At the conclusion of the hearing, the trial court determined that the evidence was relevant as proof of Kendrick's modus operandi and that the probative value of the other acts was not substantially outweighed by the danger of unfair prejudice. Based on our review of the record, we conclude that the district court did not commit manifest error in admitting the evidence.<sup>6</sup>

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<sup>4</sup>Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064-65 (1997).

<sup>5</sup>See Bletcher v. State, 111 Nev. 1477, 1480, 907 P.2d 978, 980 (1995); Petrocelli v. State, 101 Nev. 46, 52, 692 P.2d 503, 508 (1985), modified on other grounds by Sonner v. State, 112 Nev. 1328, 930 P.2d 707 (1996).

<sup>6</sup>Because Kendrick is represented by counsel in this matter, we decline to grant her permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to Kendrick unfiled all proper person documents she has submitted in this matter.

Having considered Kendrick's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

Becker, J.  
Becker

Agosti, J.  
Agosti

Gibbons, J.  
Gibbons

cc: Hon. Nancy M. Saitta, District Judge  
Clark County Public Defender Philip J. Kohn  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk