

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE RAMON TERRAZAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43224

FILED

MAY 10 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, upon jury verdict, of one count trafficking in a controlled substance and one count of conspiracy to traffic in a controlled substance. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Appellant Jose Terrazas was sentenced to a prison term of 10 years to life for the trafficking count, and a prison sentence of 24 to 60 months for the conspiracy count to run concurrently. Terrazas contends the district court abused its discretion by admitting testimony that he was carrying a concealed weapon at the time he was arrested because the evidence was extremely prejudicial and of minimal probative value.

Although Terrazas has not provided a transcript, it is uncontroverted that he went to a home that was under surveillance as part of an investigation into drug trafficking.¹ Upon leaving the home,

¹We note that Terrazas's opening brief contains no citations to the appendix and that he has not requested nor has he provided a copy of the trial transcript. Although we elect not to impose sanctions, we caution counsel for Terrazas that in the future, disregarding this court's procedural rules will result in the imposition of sanctions.

police attempted to stop Terrazas' vehicle. Terrazas failed to stop and a chase ensued, and Terrazas was stopped eventually in a parking lot. There is no assertion the police acted unlawfully in stopping the vehicle. An officer testified he observed Terrazas throwing packages of white powder that were later determined to be methamphetamine out of the vehicle. A .357 revolver was found in Terrazas' right pocket. Terrazas pleaded guilty to carrying a concealed weapon but proceeded to trial on the counts of trafficking in a controlled substance and conspiracy to traffic a controlled substance.

An appellant who asserts his conviction is the product of prejudicial error bears the burden of providing this court with an adequate record.² Terrazas has not provided transcripts of the hearing on the motion in limine or the trial. The district court ruled the evidence was admissible under a res gestae theory as well as the fact it determined that possession of guns is integral to the drug trade. While other courts have ruled similarly regarding the relationship between guns and drugs,³ the admission of the gun under res gestae was error, but given the otherwise overwhelming evidence, the error was harmless.

²Barkely v. State, 114 Nev. 636, 638 n.2, 958 P.2d 1218, 1219 n.2 (1998).

³U.S. v. Garrido, 995 F.2d 808, 816-17 (8th Cir. 1993); U.S. v. Turpin, 920 F.2d 1377, 1387 (8th Cir. 1990) (recognition that firearms are tools of the drug trade); United States v. Pomerantz, 683 F.2d 352 (11th Cir. 1982) (possession of gun relevant to support crime of conspiracy to possess drugs with intent to distribute).

"[T]he State is entitled to present a full and accurate account of the circumstances surrounding the commission of a crime, and such evidence is admissible even if it implicates the accused in the commission of other crimes for which he has not been charged."⁴ "[A]ll the facts . . . necessary to prove the crime charged in the in[dictment], when linked to the chain of events which support that crime, are admissible."⁵ "However, the 'complete story of the crime' doctrine must be construed narrowly."⁶ The trial court's determination to admit or exclude evidence is to be given great deference and will not be reversed absent manifest error.⁷

Terrazas was found with possession of over 100 grams of methamphetamine, he was observed arriving and leaving a home where a that a controlled buy was set up. Terrazas fled and tried to elude police while throwing packages of methamphetamine out of the window. "An error is harmless when it is 'clear beyond a reasonable doubt that a rational jury would have found the defendant guilty absent the error.'"⁸ Despite the error in potentially allowing evidence of the gun under the res

⁴Bletcher v. State, 111 Nev. 1477, 1479-80, 907 P.2d 978, 980 (1995) (quoting Brackeen v. State, 104 Nev. 547, 553, 763 P.2d 59, 63 (1988)).

⁵Dutton v. State, 94 Nev. 461, 464, 581 P.2d 856, 858 (1978), overruled on other grounds by Brackeen, 104 Nev. 547, 763 P.2d 59 (quoting People v. Anderson, 518 P.2d 828, 830 (1974)).

⁶Bellon v. State, 121 Nev. ___, ___, 117 P.3d 176, 181 (2005).

⁷Kazalyn v. State, 108 Nev. 67, 825 P.2d 578 (1992), modified on other grounds by Byford v. State, 116 Nev. 215, 994 P.2d 700 (2000).

⁸Allred v. State, 120 Nev. 410, 415, 92 P.3d 1246, 1250 (2004) (quoting Neder v. United States, 527 U.S. 1, 18 (1999)).

gestae exception, we conclude that the error was harmless beyond a reasonable doubt.⁹ Therefore, we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

cc: Hon. Steven P. Elliott, District Judge
Gamboa Law Offices
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁹NRS 178.598 ("Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.").