

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES BARRON, A/K/A FORTUNE  
RUSHTON,  
Appellants,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43787

FILED

FEB 03 2005

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit robbery (count I), burglary while in possession of a firearm (count II), and four counts of robbery with the use of a deadly weapon (count III-VI). Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge. The district court sentenced appellant Charles Barron to serve a prison term of 35 to 156 months for count I, a consecutive prison term of 35 to 156 months for count II, and four concurrent prison terms of 35 to 156 months for counts III-VI, with equal and consecutive prison terms for the use of a deadly weapon.

Barron's sole contention on appeal is that the district court committed reversible error by giving an improper jury instruction on conspiracy. The jury instruction at issue stated:

Conspiracy is an agreement or mutual understanding between two or more persons to commit a crime. To be guilty of conspiracy, a defendant must intend to commit, or to aid in the commission of, the specific crime agreed to. The crime is the agreement to do something unlawful;

it does not matter whether it was successful or not.

A conspiracy to commit a crime does not end upon the completion of the crime. The conspiracy continues until the co-conspirators have successfully gotten away and concealed the crime.  
(Emphasis added.)

Citing to Moore v. State,<sup>1</sup> Barron argues that the jury instruction does not contain a correct statement of law because the crime of conspiracy is complete when the unlawful agreement is reached. We conclude that Barron's contention lacks merit.

The district court is afforded broad discretion to settle jury instructions that will not be disturbed unless the jury instruction is "arbitrary or capricious" or "exceeds the bounds of law or reason."<sup>2</sup> In this case, the jurors were properly instructed on the crime of conspiracy. Although Barron notes that the crime of conspiracy may be complete when the unlawful agreement is reached, this court has also repeatedly held that the duration of the conspiracy is not limited to the making of an unlawful agreement but can continue until the conspirators conceal their acts or dispose of the fruits of their crime.<sup>3</sup> Accordingly, we conclude that

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<sup>1</sup>117 Nev. 659, 27 P.3d 447 (2001) (holding that a conspiracy conviction is not subject to the deadly weapon enhancement).

<sup>2</sup>Jackson v. State, 117 Nev. 116, 120, 17 P.3d 998, 1000 (2001).

<sup>3</sup>See State v. Wilcox, 105 Nev. 434, 435-36, 776 P.2d 549, 549-50 (1989); Foss v. State, 92 Nev. 163, 167, 547 P.2d 688, 691 (1976); Goldsmith v. Sheriff, 85 Nev. 295, 306, 454 P.2d 86, 93 (1969).

the district court did not abuse its discretion in giving the jury instruction on conspiracy because it contained an accurate statement of Nevada law.

Having considered Barron's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

Becker, C.J.  
Becker

Rose, J.  
Rose

Hardesty, J.  
Hardesty

cc: Hon. Sally L. Loehrer, District Judge  
Robert M. Draskovich, Chtd.  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk