

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANDRE RENE GRAY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44438

FILED

AUG 24 2005

ORDER OF AFFIRMANCE

CLERK OF THE SUPREME COURT
BY *J. Richards*
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of conspiracy to commit burglary and burglary. Eighth Judicial District Court, Clark County; Valorie Vega, Judge. The district court sentenced appellant Dandre Rene Gray to serve a jail term of 12 months for the conspiracy and a concurrent prison term of 18-60 months for the burglary; the sentence was ordered to run consecutively to the sentence imposed in district court case no. C199076.

First, Gray contends that the district court erred in not allowing him to argue that he did not commit the burglary because the occupant of the apartment named in the information had been evicted and did not actually live in the apartment. In a related argument, Gray contends that the district court erred in refusing his proposed directed verdict jury instruction based on the allegedly defective information. We disagree with Gray's contentions.

Initially, we note that Gray has not provided this court with any case law or relevant authority in support of his contention. This court has repeatedly stated that "[i]t is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not

be addressed by this court.”¹ Nevertheless, our review of the record on appeal reveals that Gray’s contention is without merit.

Burglary consists of entry into a building “with the intent to commit grand or petit larceny, assault or battery on any person or any felony.”² And, conspiracy to commit burglary requires that two or more persons conspired to commit the burglary.³ Neither statute requires, as a necessary element, that the State prove who occupied the apartment. Further, the items taken from the apartment by Gray and his accomplice were the property of the individual named in the criminal information. Although the individual had been evicted from the apartment, the apartment manager testified at trial that she was given 30 days to remove her property, and the burglary occurred within that 30-day period. No evidence was presented by the defense indicating that Gray had permission to enter the apartment and take the items. Additionally, Officer James Easterling of the Las Vegas Metropolitan Police Department testified at trial that Gray admitted to him that the apartment was not his, and during Gray’s own testimony he repeatedly referred to the apartment as belonging to the individual named in the information. Therefore, we conclude that the district court did not err in rejecting Gray’s proposed directed verdict jury instruction and in prohibiting defense counsel from arguing that the victim was not the occupant of the apartment.

¹Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987).

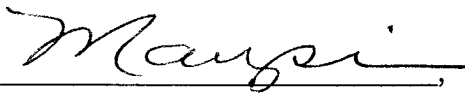
²NRS 205.060(1).

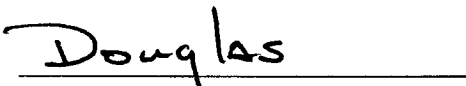
³NRS 199.480(3).

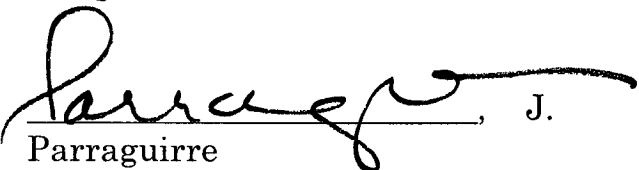
Second, Gray contends that trespass is a lesser-included offense of burglary and that the district court erred by refusing to give the jury a trespass instruction. This court recently addressed this issue in Smith v. State and held that “trespass is not a lesser-included offense of burglary.”⁴ Therefore, we conclude that the district court did not err by rejecting Gray’s proposed instruction on trespass

Having considered Gray’s contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Valorie Vega, 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

⁴120 Nev. ___, ___, 102 P.3d 569, 571 (2004).