

IN THE SUPREME COURT OF THE STATE OF NEVADA


GEORGE TADAO TASHIRO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45807

**FILED**

JUL 13 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY  CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of drawing a deadly weapon in a threatening manner. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge. The district court sentenced appellant George Tadao Tashiro to serve a jail term of 6 months, with six months of credit for time served.

Tashiro's sole contention is that the district court violated his constitutional rights to a fair trial and due process of law by proceeding with closing argument and the return of the verdict without Tashiro present. We conclude that Tashiro's contention lacks merit.

While a defendant in a criminal case has the right to be present at trial, this court has recognized that, after a trial has begun in the defendant's presence, the fact that he "voluntarily absents himself" thereafter does not prevent the completion of trial.<sup>1</sup> Further, a violation of the right to be present at trial is subject to harmless-error analysis, and the defendant has the burden to show prejudice.<sup>2</sup>

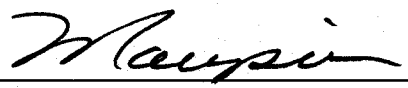
<sup>1</sup>Hanley v. State, 83 Nev. 461, 466, 434 P.2d 440, 443 (1967).


<sup>2</sup>See Kirksey v. State, 112 Nev. 980, 1000-01, 923 P.2d 1102, 1115 (1996); see also People v. Hovey, 749 P.2d 776 (Cal. 1988); State v. Shuler, 545 S.E.2d 805 (S.C. 2001); Ramirez v. State, 76 S.W.3d 121 (Tex. Crim. App. 2002).

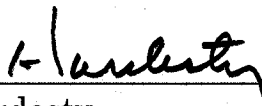
In this case, after hearing arguments from counsel, the district court found that Tashiro "voluntarily absented himself from the conclusion" of trial by calling 9-1-1 for emergency medical treatment for his mental illness. The district court noted that Tashiro appeared in good health the day before and concluded that the call for emergency treatment was a tactic to delay the trial and get attention. Even assuming that the district court erred in finding that Tashiro voluntarily absented himself from the proceedings, we conclude that the district court's refusal to continue the trial was harmless beyond a reasonable doubt. Defense counsel gave a lengthy closing argument summarizing the evidence and arguing that Tashiro did not threaten anyone. We conclude that Tashiro was not prejudiced by the district court's refusal to stay the proceedings and, given the strength of the State's case against him, the alleged error did not contribute to the verdict.

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

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

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