


IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON ERIC SONNTAG A/K/A JASON
ERIC SONTAG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49035

FILED

SEP 25 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a jury verdict, of two counts of obtaining and/or using the personal identification information of another, four counts of uttering a forged instrument, and one count of swindling. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Jason Eric Sonntag to serve various consecutive and concurrent terms of imprisonment totaling 80 to 280 months.

First, Sonntag contends that the district court abused its discretion by imposing excessive bail, which caused him to remain in custody in excess of 500 days.¹ However, Sonntag fails to identify the bail amount, argue why this amount was excessive, and provide a record of the district court's bail determination. Moreover, we note that Sonntag's

¹Sonntag cites to Nev. Const. art. 1, § 6; Ex Parte Toczyłowski, 69 Nev. 194, 245 P.2d 1004 (1952); State v. Teeter, 65 Nev. 584, 200 P.2d 657 (1948), overruled in part on other grounds by Ex Parte Wheeler, 81 Nev. 495, 406 P.2d 713 (1965); Ex Parte Malley, 50 Nev. 248, 256 P. 512 (1927).

sentence was credited for 576 days time served. Because Sonntag has failed to present a cogent argument, we decline to address this issue.²

Second, Sonntag contends that the district court abused its discretion by allowing the State to present lay opinion testimony regarding his handwriting. Lay opinion testimony is admissible if it is (1) "[r]ationally based on the perception of the witness," and (2) "[h]elpful to a clear understanding of his testimony or the determination of a fact in issue."³ Here, two witnesses testified that they were employed by businesses that rented storage space to Sonntag and they recognized Sonntag's handwriting from handwriting they had seen on other checks and correspondence they had received from Sonntag over a period of years. This testimony was helpful in determining who drafted the checks that the State claimed were forged. Under these circumstances, we conclude that the district court did not abuse its discretion by admitting the lay opinion testimony.⁴

Third, Sonntag contends that there was insufficient evidence to support his convictions for obtaining and/or using the personal identification information of another because the State did not prove that

²See Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").

³NRS 50.265.

⁴See Petrocelli v. State, 101 Nev. 46, 52, 692 P.2d 503, 508 (1985) (the decision to admit evidence is within the sound discretion of the district court, and this court will not disturb that decision unless it is manifestly wrong), modified on other grounds by Sonner v. State, 112 Nev. 1328, 930 P.2d 707 (1996).

he harmed victim Carolyn Stowell. However, as the State correctly notes, NRS 205.463 does not require that the defendant use the information to harm the victim, it is enough that the information is used for some unlawful purpose.⁵ We note that sufficient evidence was adduced at trial for a jury to determine beyond a reasonable doubt that Sonntag obtained and used Stowell's personal identifying information for the unlawful purpose of obtaining credit.⁶ We conclude that Sonntag's contention is without merit.

Fourth, Sonntag contends that there was insufficient evidence to support his convictions for uttering forged instruments because the State failed to prove that he had a fraudulent intent. "[I]ntent can rarely be proven by direct evidence of a defendant's state of mind, but instead is inferred by the jury from the individualized, external circumstances of the crime, which are capable of proof at trial."⁷ Here, the jury heard testimony that Stowell contacted authorities after discovering that someone was checking her mailbox for mail and writing convenience checks on her credit card account. Stowell recognized Sonntag's handwriting on photocopies of the convenience checks and testified that he was not authorized to write checks on her account. A witness saw Sonntag checking Stowell's mailbox. Other witnesses testified that they received the convenience checks from Sonntag as payment for storing his

⁵NRS 205.463(1)(b).

⁶See McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (citing Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

⁷Sharma v. State, 118 Nev. 648, 659, 56 P.3d 868, 874 (2002); see also NRS 193.200.

cars. Under these facts and circumstances, we conclude that the jury could reasonably find that Sonntag intended to defraud Stowell. The jury's verdict will not be disturbed where, as here, it is supported by sufficient evidence.⁸

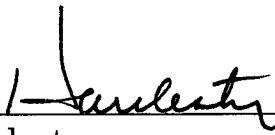
Fifth, Sonntag contends that there was insufficient evidence to support his conviction for swindling because the State failed to prove that he falsely represented his credit information to obtain a credit card from Wells Fargo. NRS 205.370 provides that "[a] person who, by false representations of his own wealth, or mercantile correspondence and connections, obtains a credit thereby and defrauds any person of money, goods, chattels or any valuable thing . . . is a swindler." Here, the jury heard testimony that Sonntag listed himself as the primary cardholder and Stowell as the secondary cardholder on his credit card application. The application included Stowell's place of employment, monthly income, length of employment, Social Security Number, date of birth, and phone numbers. Stowell did not give Sonntag permission to use her information on the application. She became aware of the credit card when Wells Fargo contacted her to collect a late payment. A fraud claim investigator testified that the collections department goes to the secondary cardholder if the primary cardholder is not paying; it was her belief that Wells Fargo relied upon Stowell's credit history in deciding to approve Sonntag's application; and, based on her experience, people use a co-applicant to strengthen their application. Under these facts and circumstances, we

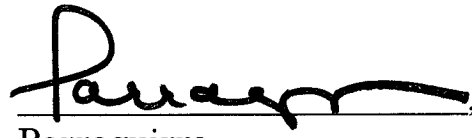
⁸See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981).

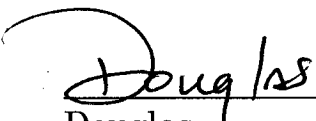
conclude that the jury could reasonably find that Sonntag falsely represented his credit information to obtain credit.

Having considered Sonntag's contentions and concluded that they are either without merit, or not appropriately presented for our review, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Steven R. Kosach, District Judge
Michael V. Roth
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk