

IN THE SUPREME COURT OF THE STATE OF NEVADA

NATASHA MARIE JACKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49515

FILED

NOV 13 2007

PAULETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict and a guilty plea, of one count each of grand larceny, escape, and battery with the use of a deadly weapon resulting in substantial bodily harm.¹ Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge. The district court adjudicated appellant Natasha Jackson as a habitual criminal and sentenced her to serve concurrent prison terms of 5 to 20 years for the grand larceny and escape, and a concurrent prison term of 10 to 25 years for the battery with a deadly weapon causing substantial bodily injury.

Jackson's sole contention is that the district court erred in denying her motion for mistrial after the State elicited witness testimony referencing Jackson's prior criminal history. Specifically, the victim in this case testified that Jackson was "on parole or probation," was being supervised by the Parole and Probation Department, and had "too many

¹Appellant was found guilty pursuant to a jury verdict of grand larceny and escape. The charge of battery with a deadly weapon causing substantial bodily injury was dismissed without prejudice. Jackson later pleaded guilty to this charge.

[previous crimes] on the record" to be cited for petty larceny. The district court sustained the objection and admonished the jury to disregard the statements. Jackson contends that the reference to this bad act evidence resulted in undue prejudice and deprived her of a fair trial.

The decision whether to deny a motion for a mistrial rests within the district court's discretion and will not be reversed on appeal "absent a clear showing of abuse."² Moreover, "[a] witness's spontaneous or inadvertent references to inadmissible material, not solicited by the prosecution, can be cured by an immediate admonishment directing the jury to disregard the statement."³

We conclude that the district court did not err in denying Jackson's motion for mistrial. The district court sustained the objection, gave a limiting instruction, and promptly admonished the jury to disregard the comments. We presume that the jurors followed the district court's instructions.⁴ Further, Jackson has not demonstrated that the admission of the bad act evidence "had substantial and injurious effect or influence in determining the jury's verdict."⁵ We note that the jury only

²Randolph v. State, 117 Nev. 970, 981, 36 P.3d 424, 431 (2001).

³Carter v. State, 121 Nev. 759, 770, 121 P.3d 592, 599 (2005).

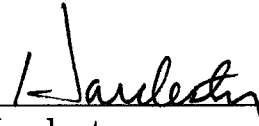
⁴See Allred v. State, 120 Nev. 410, 415, 92 P.3d 1246, 1250 (2004).

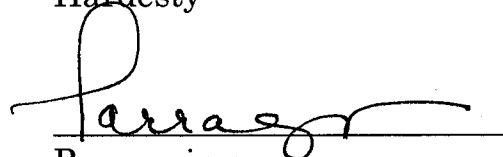
⁵Tavares v. State, 117 Nev. 725, 732-33, 30 P.3d 1128, 1132-33 (2001) (quoting Kotteakos v. United States, 328 U.S. 750, 776 (1946)).

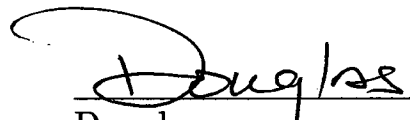
convicted Jackson of two of the thirteen charged criminal offenses, and there was overwhelming direct evidence of guilt.⁶

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Douglas W. Herndon, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

⁶See Thomas v. State, 114 Nev. 1127, 1141-42, 967 P.2d 111, 1121 (1998) (comment on prior criminal history harmless where comment was unsolicited by prosecutor and evidence was overwhelming).