

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD SATTERFIELD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50260

**FILED**

MAY 05 2009  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY: *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of first-degree murder with the use of a deadly weapon.<sup>1</sup> Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

Appellant Richard Satterfield raises multiple challenges to his murder conviction for shooting and killing Edgar Poe. For the following reasons, we conclude that all of Satterfield's arguments fail and therefore affirm the district court's judgment of conviction. The parties are familiar with the facts and we do not recount them here except as necessary to our disposition.

Satterfield's proposed jury instructions regarding accomplice testimony

Satterfield contends that the district court committed reversible error by rejecting his proposed jury instructions regarding accomplice testimony, which he contends were necessary to preserve his theory of defense—i.e., that there was no independent evidence connecting him to Poe's murder because all four of the eyewitnesses were accomplices.

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<sup>1</sup>Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

At the close of evidence, Satterfield proposed two jury instructions directing the jury that corroborating evidence, independent of an accomplice's testimony, must connect the defendant to the offense, and that accomplice testimony should be viewed with caution. However, the district court rejected these instructions, concluding instead that the corroborating evidence instruction was unnecessary because there was independent evidence that connected Satterfield to the crime and that the cautionary instruction was unnecessary.

Although district courts have broad discretion to settle jury instructions and this court reviews the decision to give or deny a particular instruction for an abuse of discretion or judicial error, "the defense has the right to have the jury instructed on its theory of the case as disclosed by the evidence, no matter how weak or incredible that evidence may be." Crawford v. State, 121 Nev. 744, 748, 751, 121 P.3d 582, 585-86 (2005) (internal quotation marks omitted).

Under NRS 175.291(1), Nevada's accomplice testimony statute, a conviction cannot stand solely on the basis of accomplice testimony unless it is corroborated by independent evidence. The term accomplice is defined as "one who is liable to prosecution for the identical offense charged against the defendant . . . or who is culpably implicated in, or unlawfully cooperates, aids or abets in the commission of the crime charged." Orfield v. State, 105 Nev. 107, 109, 771 P.2d 148, 149 (1989); see also NRS 175.291(2).

Here, the evidence suggests that some, if not all, of the eye-witnesses to the shooting—Rondell Scott, Deandre Thompson, Curtis Kennedy, and Shawn Clay—could have been accomplices to Poe's murder. Scott was the owner of the gun used to kill Poe, disposed of the weapon

after the crime, and ultimately pleaded guilty as an accessory to Poe's murder; Thompson, the driver of the vehicle, transported Satterfield to and from the scene of the crime; Kennedy, an occupant of the vehicle present at the scene of the crime, assisted Scott in dismantling and disposing of the gun that Satterfield used; Clay, another occupant of the vehicle, jumped out of the vehicle with Satterfield and attempted to punch Poe.

Given this evidence, a jury could have viewed all four eye-witnesses as accomplices to Poe's murder. Therefore, we conclude that Satterfield was entitled to have both his corroboration and cautionary instruction on accomplice testimony submitted to the jury; however, the error was harmless.

The district court's error was harmless

Despite the district court's error in rejecting Satterfield's proposed instructions on accomplice testimony, we conclude that the error was harmless because the district court provided the jury with a separate instruction that substantially covered the rejected instructions and there was overwhelming evidence of Satterfield's guilt. See Crawford, 121 Nev. at 756, 121 P.3d at 590.

Although it rejected Satterfield's proposed instructions, the district court provided the jury with an instruction that recited verbatim NRS 175.291, Nevada's accomplice testimony statute.<sup>2</sup> Similar to

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<sup>2</sup>Specifically, the instruction stated:

A conviction shall not be had on the testimony of an accomplice unless it is corroborated by other evidence which in itself, and without the aid of the

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Satterfield's proposed instructions, this instruction defined the term "accomplice" for the jury and cautioned that Satterfield could not be convicted solely on accomplice testimony.

Because the district court's instruction substantially covered Satterfield's proposed instructions, Satterfield's defense theory was properly before the jury. Moreover, in finding Satterfield guilty, the jury must have determined that at least one of the witnesses was not an accomplice to Poe's murder and sufficiently corroborated the testimony of the other witnesses. See Howard v. State, 102 Nev. 572, 576-77, 729 P.2d 1341, 1344 (1986) (stating that a cautionary instruction is only required when an accomplice's testimony is uncorroborated) (emphasis added) (citing Buckley v. State, 95 Nev. 602, 604, 600 P.2d 227, 228-29 (1979)).

Furthermore, with respect to the nature of the evidence against him, given that four witnesses testified that they saw Satterfield shoot and kill Poe, and the jury could have considered any one or more of them to be non-accomplices, the evidence of Satterfield's guilt is

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*... continued*

testimony of the accomplice, tends to connect the defendant with the commission of the offense; and the corroboration shall not be sufficient if it merely shows the commission of the offense or the circumstances thereof.

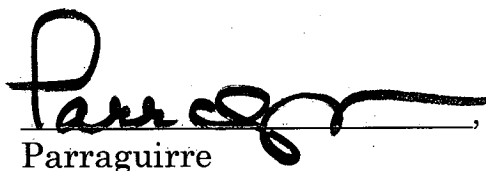
An accomplice is defined as one who is liable to prosecution, for the identical offense charged against the defendant on trial in the cause in which the testimony of the accomplice is given.

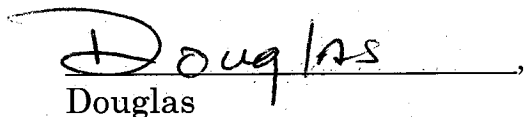
overwhelming.<sup>3</sup> Accordingly, we conclude that refusing Satterfield's proposed jury instructions was harmless.

Conclusion

For the reasons set forth above, we conclude that Satterfield's arguments on appeal lack merit.<sup>4</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

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<sup>3</sup>For these same reasons, we conclude that a rational juror could have found that there was sufficient evidence to convict Satterfield of murder and therefore rejected Satterfield's challenge to the sufficiency of the evidence. Grey v. State, 124 Nev. \_\_\_, \_\_\_, 178 P.3d 154, 162 (2008)).

<sup>4</sup>Satterfield also argues that the prosecution knowingly put forth false testimony, the district court erred in admitting evidence of his gang affiliation, and cumulative error mandates reversal of his conviction. Having carefully reviewed these separate challenges, we conclude that the prosecution did not put forth false testimony, evidence of Satterfield's gang affiliation was proven by clear and convincing evidence and was not unduly prejudicial, and there was no cumulative error. Therefore, reversal is unwarranted.

cc: Hon. Donald M. Mosley, District Judge  
Law Offices of Martin Hart, LLC  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk