

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN DREW ALMY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50364

FILED

OCT 02 2008

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingels*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of first-degree arson (count I), burglary while in possession of a firearm (count II), and attempted murder with the use of a deadly weapon (counts III-IV). Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge. The district court sentenced appellant Kevin Drew Almy to serve a prison term of 36-120 months for count I, a consecutive prison term of 36-120 months for count II, two consecutive prison terms of 48-140 months for count III, and two consecutive prison terms of 48-140 months for count IV; the prison terms for counts III and IV were ordered to run concurrently with the terms imposed for counts I and II. Almy was ordered to pay \$500 in restitution.

Almy's sole contention is that the Clark County District Court did not have jurisdiction to preside over the charge of first-degree arson because the crime was committed in Nye County. Prior to trial, Almy filed a motion to dismiss the arson count; the district court denied the motion. Almy claims that the arson "was not interwoven with the crimes occurring

in Clark County,” and therefore, the proper venue for that case is Nye County. We disagree.

Under NRS 171.030, venue for prosecution of a public offense is proper in any county in which acts constituting or requisite to the consummation of the offense take place.¹ Moreover, where a criminal offense involves conduct affecting an ongoing judicial proceeding, venue is proper in the county where the judicial proceeding is conducted.²

In this case, we conclude that venue was proper in Clark County. The State presented evidence that Almy’s desire to commit arson in Nye County was due to losing a protracted estate battle initiated in Clark County District Court, and that immediately after setting fire to the house in Pahrump, Almy returned to Clark County and attempted to murder the heir to the house, namely, the daughter of the deceased homeowner. Almy believed that the daughter prevented him from acquiring the house he had resided in with his deceased girlfriend. Based on the above, we conclude that the district court did not err by denying Almy’s motion to dismiss the arson count from the indictment.

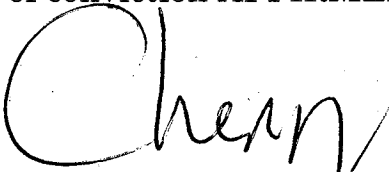
¹NRS 171.030 provides:


When a public offense is committed in part in one county and in part in another or the acts or effects thereof constituting or requisite to the consummation of the offense occur in two or more counties, the venue is in either county.

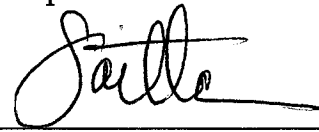
²See generally 22 C.J.S. Criminal Law §§ 224, 236 (2008).

Having considered Almy's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Maupin


_____, J.
Saitta

cc: Hon. Michelle Leavitt, District Judge
Thomas F. Pitaro
Joseph S. Sciscento
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk