


IN THE SUPREME COURT OF THE STATE OF NEVADA

DONJARALE MARCELOUS
WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50558

FILED

APR 14 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of carrying a concealed weapon or other deadly weapon, resisting a public officer, and possession of a firearm by an ex-felon. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Donjarale Williams to serve a prison term of 24 to 60 months for the carrying of a concealed weapon count, and concurrent terms of 6 months for the resisting a public officer count and 24 to 72 months for the possession of a firearm by an ex-felon count.

Williams first contends that his constitutional right to a fair trial was violated when the district court dismissed a prospective juror without adequate legal cause. Specifically, Williams contends that, over defense counsel's objection, the district court erroneously dismissed the potential juror because of hygiene issues. Williams argues that the

district court should have merely admonished the juror to improve his hygiene.¹ Williams also argues the district court violated Williams' and the potential juror's equal protection rights by dismissing the potential juror based on grounds of poverty and homelessness.

Because challenges for cause involve factual determinations, the district court enjoys broad discretion in ruling on the dismissal of a potential juror.² Here, the district court determined that the venireman would be a distraction to the other jury members. Further, there is no indication in the record that the potential juror was dismissed based on a suspect classification. Accordingly, we conclude that the district court did not commit constitutional error or abuse its discretion in dismissing the potential juror.³

Next, Williams contends that the district court erred in giving a flight instruction, over defense counsel's objection, because the instruction "accentuated" actions required to find Williams guilty of resisting a police officer, and was therefore unduly prejudicial. Williams, however, has not cited any relevant authority in support of his

¹Williams cites to Commonwealth v. Connor, 467 N.E.2d 1340 (Mass. 1984) (where a court admonished a juror regarding his hygiene after eleven days of trial proceedings).

²Blake v. State, 121 Nev. 779, 795, 121 P.3d 567, 577 (2005) (citing Leonard v. State, 117 Nev. 53, 67, 17 P.3d 397, 406 (2001)).

³See Batson v. Kentucky, 476 U.S. 79 (1986).

contention.⁴ We conclude that Williams has failed to show that the district court erred in giving the flight instruction.

In a related argument, Williams contends that the district court erred in giving the flight instruction because it omitted the “consciousness of guilt element.” The district court instructed the jury that

[t]he flight of a person after the commission of a crime, or upon arrival of the police, is not sufficient in itself to establish his guilt, but is a fact which, if proved, may be considered by you in the light of all other proved facts in deciding the questions of his guilt or innocence.

Initially, we note that Williams did not object to the flight instruction on the ground that it was missing an element. Failure to raise an objection in the district court generally precludes appellate consideration of an issue absent plain error affecting substantial rights.⁵ Generally, an appellant must show that he was prejudiced by a particular error in order to prove that it affected his substantial rights.⁶

This court recently determined that a similar flight instruction was appropriate.⁷ Here, Williams failed to demonstrate that

⁴See Maresca v. State, 103 Nev. 669, 748 P.2d 3 (1987) (this court need not consider contentions unsupported by relevant authority).

⁵See Gallego v. State, 117 Nev. 348, 365, 23 P.3d 227, 239 (2001).


⁶Id.

⁷Weber v. State, 121 Nev. 554, 582, 119 P.3d 107, 126 (2005).

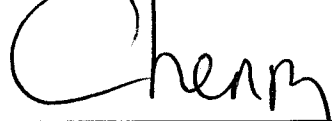
the giving of the flight instruction affected his substantial rights. Accordingly, no plain error occurred.

Having considered Williams' contentions and determined that they are without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.

Maupin


_____, J.

Cherry


_____, J.

Saitta

cc: Hon. Stewart L. Bell, 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