IN THE SUPREME COURT OF THE STATE OF NEVADA

NARCUS S. WESLEY A/K/A NARCUS SAMONE WESLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52127

MAR 1 1 2010

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 conspiracy to commit burglary, conspiracy to commit robbery, two counts of burglary while in possession of a deadly weapon, four counts of robbery with the use of a deadly weapon, two counts of assault with a deadly weapon, second-degree kidnapping, five counts of sexual assault with the use of a deadly weapon, coercion with the use of a deadly weapon, and open or gross lewdness with the use of a deadly weapon. Eighth Judicial District Court, Clark County; James M. Bixler, Judge. Appellant Narcus Wesley raises several claims of error.

First, Wesley claims that the district court erred by admitting his coconspirator Delarian Wilson's hearsay statements and guilty plea. Wesley's claims are without merit. Wilson's statements during the perpetration of the crime were non-hearsay pursuant to NRS 51.035(3)(e). And Wilson's confession and guilty plea were admitted by the defense over the State's objections. See Ford v. State, 122 Nev. 796, 805, 138 P.3d 500, 506 (2006) (confrontation rights may be waived through counsel); Carter v. State, 121 Nev. 759, 769, 121 P.3d 592, 599 (2005) ("A party who

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participates in an alleged error is estopped from raising any objection on appeal.").

Second, Wesley claims that the district court erred by denying a motion to suppress his statements based on (1) a deficient search warrant and (2) the violation of his rights under Miranda v. Arizona, 384 U.S. 436 (1966). Wesley's claims are without merit. Although the record reveals that some information in the affidavit supporting the search warrant was inaccurate, the district court did not err in finding that (1) the errors in the affidavit were not made intentionally or with a reckless disregard for the truth and (2) absent the misinformation the affidavit still provided probable cause for a warrant to issue. See Franks v. Delaware, 438 U.S. 154, 171-72 (1978). And Wesley was properly informed of his Miranda rights before he consented to questioning. His father's request for an opportunity to contact the family attorney did not constitute an invocation of Wesley's right to counsel. See, e.g., Terry v. LeFevre, 862 F.2d 409, 412 (2d. Cir. 1988) (providing that mother cannot invoke right to counsel on behalf of son); Dewey v. State, 123 Nev. 483, 485, 169 P.3d 1149, 1150 (2007) (concluding that request for counsel must be "clear, unequivocal, and unambiguous").

Third, Wesley claims that there is insufficient evidence to support his convictions. However, in addition to the consistent testimony of six victims regarding the crime and their identification of Wesley as matching the description of one of the two perpetrators, Wesley admitted his willing involvement. The evidence was more than sufficient for a rational juror to find beyond a reasonable doubt that Wesley was guilty of all of the charged crimes. See Jackson v. Virginia, 443 U.S. 307, 319 (1979); McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

Fourth, Wesley claims that his sentences are cumulative and excessive because he was sentenced to ten life terms with the possibility of

parole related to one alleged act of digital penetration. Wesley misstates the facts. He was found guilty of one count of sexual assault with the use of a deadly weapon for the digital penetration of one victim. The remaining four counts of sexual assault with the use of a deadly weapon resulted from forcing two victims to perform several sexual acts on one another at gun point. And Wesley's sentences for each individual act—and the pertinent weapon enhancements—are within the statutory guidelines. See NRS 200.366; 1995 Nev. Stat., ch. 455, § 1, at 1431; State v. Dist. Ct. (Pullin), 124 Nev. ___, ___, 188 P.3d 1079, 1080-81 (2008).

Finally, Wesley claims that trial counsel was ineffective for admitting guilt during opening statements. We decline to address this claim because "[o]n direct appeal, this court does not address claims of ineffective assistance of counsel." Ouanbengboune v. State, 125 Nev. ___, ___, 220 P.3d 1122, 1125 n.1 (2009).

Having considered Wesley's claims and concluded that no relief is warranted,[1] we

ORDER the judgment of conviction AFFIRMED.

_______________, J.
Hardesty

_______________, J.
Douglas

_______________, J.
Pickering

[1]Wesley makes a passing claim in the conclusion of his opening brief that the district court erred by permitting the peremptory challenge of an African-American potential juror in violation of Batson v. Kentucky, 476 U.S. 79 (1986). Our review of the record reveals no error in this regard.

cc: Hon. James M. Bixler, District Judge
The Law Office of Dan M. Winder, P.C.
Clark County District Attorney
Eighth District Court Clerk