

IN THE SUPREME COURT OF THE STATE OF NEVADA

SAMISONI TAUKITOKU,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53220

FILED

MAR 10 2010

TRACIA 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 three counts of first-degree murder with the use of a firearm and four counts of assault with a deadly weapon. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Appellant's only claim on appeal is that the district court committed reversible error when it admitted prior bad act evidence. At a Petrocelli¹ hearing, a witness testified that two days before the charged crimes, he escorted appellant from a Halloween party. Angry, appellant stated, "That's fine, we don't need costumes. We can get our guns." The State sought to admit this evidence to show appellant's motive and intent in bringing the gun to another Halloween party where the charged crimes occurred. See NRS 48.045(2); Knipes v. State, 124 Nev. ___, 192 P.3d 1178, 1184 (2008) (providing that prior act evidence "is admissible for

¹Petrocelli v. State, 101 Nev. 46, 692 P.2d 503 (1985), modified by Sonner v. State, 112 Nev. 1328, 1333-34, 930 P.2d 707, 711-12 (1996) and superseded in part by statute as stated in Thomas v. State, 120 Nev. 37, 45, 83 P.3d 818, 823 (2004).

purposes other than to prove the character of the defendant 'so long as certain procedural requirements are satisfied'" (quoting Taveres v. State, 117 Nev. 725, 730, 30 P.3d 1128, 1131 (2001), modified by Mclellan v. State, 124 Nev. ___, ___, 182 P.3d 106, 110 (2008))). The district court admitted the evidence, concluding that the prior act was relevant, proved by clear and convincing evidence, and not unduly prejudicial. See Tavares, 117 Nev. at 733, 30 P.3d at 1133. Additionally, the district court provided proper limiting instructions contemporaneously with the admission of the prior act and at the close of evidence. We conclude that the district court did not abuse its discretion in admitting the challenged evidence. See Braunstein v. State, 118 Nev. 68, 72, 40 P.3d 413, 416 (2002) (providing that admission of prior bad act evidence is within district court's discretion and that decision will not be reversed absent showing of manifest error).

Having considered appellant's claim and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Patrick Flanagan, District Judge
Scott W. Edwards
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk