

IN THE SUPREME COURT OF THE STATE OF NEVADA


RICKY JASON VAZQUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53339

FILED

FEB 03 2010

ORDER OF AFFIRMANCE

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of second-degree murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Valerie Adair, Judge. Appellant was sentenced to serve two consecutive terms of life in prison with the possibility of parole.


Appellant's sole issue on appeal is that the district court erred by refusing to sever his trial from that of his codefendant on the grounds that the defendants' defenses were antagonistic. To support his contention, appellant presents two arguments. First, he explains that the evidence presented does not show that he shot the victim and that he was denied the "ability to effectively put on his defense based on the denial of his Motion to Sever." Second, appellant argues that joinder precluded him from eliciting additional testimony regarding an incident before the murder between his codefendant and a State's witness, which, according to appellant, would have illustrated that his codefendant had a motive to kill the victim. In particular, the State's witness testified that he was upset when the codefendant appeared on his property to pick up the victim due to "an incident that happened three or four weeks before." After a

bench conference, appellant's counsel was only permitted to ask the witness if that incident involved drugs.

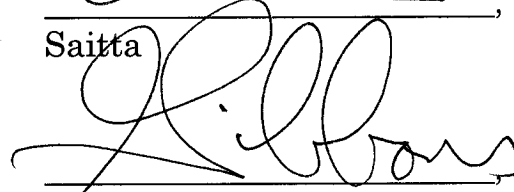
Although antagonistic defenses may cause prejudice sufficient to warrant severance, the defendant must demonstrate "conflicting and irreconcilable" defenses such that "there is a danger that the jury will unjustifiably infer that this conflict alone demonstrates that both are guilty." Chartier v. State, 124 Nev. ___, ___, 191 P.3d 1182, 1185 (2008) (internal quotations omitted). Because appellant fails to adequately explain how his and his codefendant's defenses were antagonistic or show prejudice resulting from a joint trial, we conclude that the district court did not abuse its discretion in this regard. See Marshall v. State, 118 Nev. 642, 646-47, 56 P.3d 376, 379 (2002) (providing that joinder of defendants falls within district court's discretion and its decision will not be disturbed absent abuse of discretion).

Having considered appellant's arguments and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Valerie Adair, District Judge
Keith C. Brower
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk