

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAQUILLE E. HAZELWOOD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54175

FILED

JUL 15 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of first-degree murder with the use of a deadly weapon and attempted robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge. Appellant Shaquille Hazelwood raises four issues.

First, Hazelwood contends that several references to the victim's grandchildren constituted improper victim-impact testimony. We are unpersuaded. See Kaczmarek v. State, 120 Nev. 314, 340, 91 P.3d 16, 34 (2004) (defining victim-impact evidence as testimony touching upon "the victim's personal characteristics and the emotional impact of the victim's death"); see also Muhammad v. Commonwealth, 619 S.E.2d 16, 53 (Va. 2005) (concluding that where "short biographical information about the victim" does not include "evidence of economic or psychological loss, or grief," it is not victim-impact evidence); Commonwealth v. Hall, 872 A.2d 1177, 1185-86 (Pa. 2005) (similar). Further, even if the testimony could be so characterized, evidence adduced at trial showed that the victim supported her grandchildren and intended to use the money of which Hazelwood attempted to rob her to pay for their housing. That she

had triplet grandchildren made it more likely that she had not spent the entire amount on drugs and the fact that she displayed that amount of cash during the drug transaction establishes Hazelwood's motive to rob her. Because "[e]vidence relating to the facts attendant to the offense is clearly admissible during the guilt phase, even though it might be characterized as victim-impact evidence," State v. McKnight, 837 N.E.2d 315, 338 (Ohio 2005) (internal quotations omitted), we conclude that the district court did not abuse its discretion in admitting it. See Wesley v. State, 112 Nev. 503, 510, 916 P.3d 793, 798 (1996).

Second, Hazelwood asserts that the district court erred by overruling his objection to three witnesses' testimony regarding fear or intimidation. Aaron Noble, explaining two recantations he authored, testified that he was on the same cell block as Hazelwood while he was incarcerated, and that Hazelwood and his cousins intimidated him into writing these letters. This is sufficient credible evidence that Hazelwood was the source of the intimidation and therefore its admission was not error. See Lay v. State, 110 Nev. 1189, 1193, 886 P.2d 448, 450-51 (1994); see also Mercer v. U.S., 724 A.2d 1176, 1184 (D.C. 1999) (explaining that evidence of threats against a witness are admissible to explain prior inconsistent statements). As to the other two witnesses, they testified as to their general reluctance to testify as a result of potentially being known as "snitches" in their community. Given the overwhelming evidence of Hazelwood's guilt—including the testimony of two eyewitnesses to the crimes—the admission of such irrelevant testimony is not reversible error. Lay, 110 Nev. at 1194, 886 P.2d at 451.

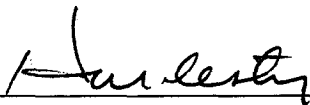
Third, Hazelwood claims that the cumulative effect of error mandates a new trial. We conclude that any error in this case, whether

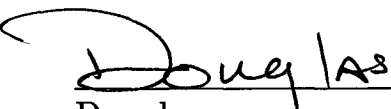
considered individually or cumulatively, does not warrant such relief. See Byford v. State, 116 Nev. 215, 241-42, 994 P.2d 700, 717-18 (2000).

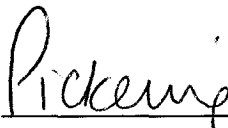
Fourth, Hazelwood claims that the district court abused its discretion in granting his motion to withdraw his guilty plea. "It is a novel argument that constitutional rights are infringed by trying the defendant rather than accepting his plea of guilty," Weatherford v. Bursey, 429 U.S. 545, 561 (1977), and, where the defendant himself moved for the plea's withdrawal, it is an argument we reject as meritless.

Having considered Hazelwood's contentions, and for the reasons discussed above, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Special Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk