


IN THE SUPREME COURT OF THE STATE OF NEVADA

LAURIE JEANICE VESELKA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54274

**FILED**

MAY 07 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of two counts of forgery; two counts of possession of a forged instrument; and one count each of possession of personal identifying information of another person, conspiracy to possess personal identifying information of another person, burglary, uttering a forged instrument, and conspiracy to commit burglary and uttering a forged instrument. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Sufficiency of the evidence

Veselka contends there was insufficient evidence to support her convictions. Veselka specifically claims that she was held responsible for the criminal activity of Cindy Heiman and Eric Padgett and that their testimony at her trial was not corroborated as required by NRS 175.291(1). We review the evidence in the light most favorable to the prosecution and determine whether any rational juror could have found the essential elements of the crime beyond a reasonable doubt. McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

Heiman testified that Veselka asked her to cash a check, Veselka wrote all the information on the check, they went into the bank together, and, when the teller would not cash the check, they left together. Jasmine Look testified that she was working as a teller, Heiman presented her with a check to be cashed, and both Heiman and Veselka told her that they received the check as payment for a car. When Look was unable to verify the signature, she called the account holder, determined that the account holder had not written the check, and called the police. Padgett testified that he and Veselka shared a hotel room, he was with her when she “fished” mail out of mail boxes, she brought the mail to the hotel room, and they threw away any mail that did not contain checks or money orders. In the hotel room, he observed the checks, the tub with chemicals in it, and chemicals on the bathroom counter. A security investigator testified that he recovered some checks from a suspicious vehicle and determined that one of the checks was fraudulent. A police officer testified that the vehicle was registered to Veselka and that it contained the sticky rat traps criminals use to “fish” mail out of mail boxes, a gas additive criminals use to “wash” the ink off of checks, and checks belonging to other people. The officer further testified that washed checks were found in Veselka’s purse; a surveillance video depicted her carrying bags of what appeared to be mail to her hotel room; and her hotel room bathroom contained stolen mail, forged checks, washing material, and the bags used to carry the mail. The jury was also provided with photographs of the hotel room and forged checks.

We conclude that the accomplice testimony was adequately corroborated with independent evidence that connected Veselka with the commission of the crimes, see Ramirez-Garza v. State, 108 Nev. 376, 379,

832 P.2d 392, 393 (1992), and that a rational juror could reasonably infer from the evidence that Veselka committed the crimes of forgery, possession of a forged instrument, possession of personal identifying information of another person, conspiracy to possess personal identifying information of another person, burglary, uttering a forged instrument, and conspiracy to commit burglary and uttering a forged instrument, see NRS 199.480(3); NRS 205.060(1); NRS 205.090; NRS 205.110; NRS 205.465(1). It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

#### Double jeopardy

Veselka contends that the district court violated the Double Jeopardy Clause by (1) convicting her of two counts of conspiracy because there was only a single agreement to commit multiple crimes and (2) convicting her of possession of a forged instrument, possession of personal identifying information of another person, and uttering a forged instrument because these crimes punish the same act. The Double Jeopardy Clause protects defendants from multiple punishments for the same offense. Salazar v. State, 119 Nev. 224, 227, 70 P.3d 749, 751 (2003). To determine whether multiple convictions for the same act or transaction are permissible, we use the test set forth in Blockburger v. United States, 284 U.S. 299, 304 (1932). Salazar, 119 Nev. at 227, 70 P.3d at 751. And even if multiple convictions for the same act are permitted under Blockburger, "we will reverse redundant convictions that do not comport with legislative intent." Id. (internal quotation marks omitted). Our

review of the record reveals that each of Veselka's convictions punishes a separate criminal act and therefore her contention is without merit.

#### Jury instructions

Veselka contends that the jury was improperly instructed. She specifically claims that: (1) instructions 19, 20, and 21 violate the double jeopardy and due process clauses; (2) instruction 22 improperly presents possession theories that reduce the State's burden of proof; and (3) instruction 32A was improper and failed to adequately advise the jury how to properly evaluate the testimony of a drug addict witness. However, the record does not indicate that these alleged errors were preserved for review. "Generally, the failure to clearly object on the record to a jury instruction precludes appellate review. However, this court has the discretion to address an error if it was plain and affected the defendant's substantial rights." Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003) (internal quotation marks and footnote omitted). We conclude that instructions 19 through 22 accurately reflect the law and that any error in instruction 32A did not affect Veselka's substantial rights. Therefore, no relief is warranted.

#### Prior bad acts

Veselka contends that the district court erred by admitting evidence of uncharged bad acts and by failing to instruct the jury on the limited use of bad act evidence. "We review a district court's decision to admit or exclude evidence for an abuse of discretion." Mclellan v. State, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008) (internal quotation marks and footnote omitted). Veselka did not object to evidence regarding her intimate relationship with Justin Roe, Roe's drug crimes, her "hot-wired" car, Heiman's other forgery allegations, Padgett's drug crimes, the number

of victims and quantity of mail, checks unrelated to the charged offenses, and the district court's failure to provide a limiting instruction upon the admission of this evidence, so we review for plain error. See id. We conclude that these alleged errors are not plain from the record and therefore no relief is warranted. Veselka objected to evidence that Padgett possessed a gun, the cumulative nature of the photographic evidence, and the fact that the photographs depicted evidence that was not specifically related to the charged offenses. The district court overruled the objections after the State asserted that the gun evidence was necessary to tie Padgett to a backpack that contained evidence relevant to the charged offenses and the photographic evidence went to the overall plan, scheme, design in this case; corroborated the testimony of the witness; and was evidence collected during the course of the investigation. We conclude that the district court did not abuse its discretion by admitting this evidence.

Grand jury testimony

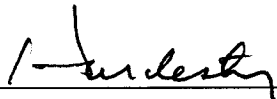
Veselka contends that the admission of one of the victims' grand jury testimony into evidence was plain error and violated her Sixth Amendment confrontation right. However, the right of confrontation may be waived through counsel. See Ford v. State, 122 Nev. 796, 805, 138 P.3d 500, 506 (2006). "The test for the validity of a waiver of a fundamental constitutional right is whether the defendant made an intentional relinquishment or abandonment of a known right or privilege." Id. (internal quotation marks omitted). Here, defense counsel stipulated that the victim's grand jury testimony could be read into the record. Accordingly, there was no error.


NRAP 3C


Veselka contends that NRAP 3C is unconstitutional because it deprives defendants of their right to counsel of their choice. This contention is inconsistent with the plain language of NRAP 3C(b), contrary to our holding in Wood v. State, 115 Nev. 344, 352, 990 P.2d 786, 791 (1999) (the fast track program does not violate the state and federal constitutions), and belied by the record which reveals that Veselka is currently represented by the appellate counsel of her choice.

Having considered Veselka's contentions and concluded that she is not entitled to relief, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. Janet J. Berry, District Judge  
Karla K. Butko  
Washoe County Alternate Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk