

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEONARD W. HILL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54342

FILED

MAY 27 2011

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of first-degree murder. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In the morning hours of December 12, 2005, the Las Vegas Metropolitan Police Department (LVMPD) was called to the shared apartment of appellant Leonard W. Hill and Robin Martin for a domestic disturbance. After defusing the situation by escorting Hill and Martin into separate rooms and determining that neither party posed a danger to the other, the LVMPD left the apartment. Several hours later, a neighbor called the LVMPD upon hearing loud noises coming from the apartment. Subsequently, the LVMPD entered the apartment and found Martin on the floor. Martin was not breathing and was later pronounced dead. A Clark County medical examiner later determined that Martin's death was a homicide as a result of strangulation.

While in custody, Hill made numerous unsolicited statements to the police that connected him to Martin's murder. He was subsequently charged by criminal information with one count of murder. A jury found Hill guilty of first-degree murder. DNA analysis was not conducted in preparation for this trial. According to Hill, Detective Laura Anderson of the LVMPD testified during the first trial that DNA analysis would be

time consuming and complicated.¹ Subsequently, this court reversed Hill's murder conviction and remanded for a new trial based on erroneous admission of expert testimony and several instances of prosecutorial misconduct. Hill v. State, Docket No. 47991 (Order of Reversal and Remand, February 29, 2008).

Thereafter, all items of evidence were subject to a DNA analysis for use in the second trial. Although Detective Anderson testified in the first trial, the State did not intend to call her during the second trial. However, Hill desired Detective Anderson to testify concerning the delay in DNA processing. The district court indicated that it would be problematic to include testimony about the lapse of time between the murder and the processing of the DNA samples. Thus, the district court excluded Detective Anderson's testimony because to admit it would open the door to discussion of Hill's previous trial and conviction, which could unfairly prejudice the current jury against Hill. Upon completion of a seven-day trial, the jury found Hill guilty of first-degree murder.² This appeal followed.

On appeal, Hill argues that the district court abused its discretion by excluding Detective Anderson's testimony about the delay in DNA processing. Specifically, Hill argues that he was entitled to impeach Anderson regarding her testimony at the first trial, and that such a line of questioning would not be prejudicial because Anderson could refer to an

¹A transcript of the first trial was not provided in the record.

²The parties are familiar with the facts, and we do not recount them further except as necessary to our disposition.

ambiguous “prior hearing” where she had testified previously. We conclude that the district court did not abuse its discretion in excluding Detective Anderson’s testimony because her testimony would have led to discussion of Hill’s first trial and conviction, unfairly prejudicing Hill in the eyes of the jury. We further conclude that Hill’s remaining arguments are without merit.³ Therefore, we affirm the judgment of conviction.

Detective Anderson’s testimony

Hill contends that the district court abused its discretion in excluding Detective Anderson’s testimony regarding the delay in DNA processing. Hill argues that the district court improperly restricted his ability to present his theory of the case. Hill also argues that he sought to examine Detective Anderson concerning her rationale for not immediately processing the DNA samples to demonstrate the inadequacy of the investigation and the insufficiency of the evidence.

³Hill also argues that the district court abused its discretion in: (1) admitting expert testimony; (2) rejecting a for-cause challenge to an alternative juror; (3) admitting testimony regarding the victim’s character for peacefulness, photographs of the victim’s apartment, a detective’s testimony concerning his review of the crime scene photographs and reports, and evidence that the victim planned to request a temporary protection order against Hill; (4) excluding evidence offered to impeach a prosecution witness, and a report prepared by a DNA analyst; and (5) limiting attempts to inform potential jurors about the law and the defense theory during voir dire. Hill further argues that: (6) the State failed to present sufficient evidence to prove that the killing was willful, deliberate, and premeditated and not the result of self-defense; (7) the prosecutor engaged in misconduct during closing argument; (8) the district court abused its discretion in rejecting his proffered jury instructions; (9) cumulative error warrants reversal of the judgment of conviction; and (10) he remains prejudiced by the district court’s rulings during the first trial. We have reviewed these arguments and conclude that they lack merit.

The decision to exclude testimony is within the sound discretion of the district court, and the court's decision will not be overturned absent manifest error. Means v. State, 120 Nev. 1001, 1007-08, 103 P.3d 25, 29 (2004).


Although a criminal defendant has a due process right to introduce into evidence any testimony or documentation which would tend to prove the defendant's theory of the case, that right is subject to the rules of evidence, including the rules that evidence must be relevant, and that even relevant evidence is inadmissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury.

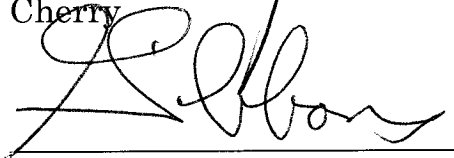
Rose v. State, 123 Nev. 194, 205 n.18, 163 P.3d 408, 415-16 n.18 (2007) (internal citations and quotations omitted); NRS 48.035(1).


Here, we conclude that Detective Anderson's testimony about the delay in DNA processing, although relevant, would have unfairly prejudiced Hill by alerting the jury to Hill's first conviction. See NRS 48.035(1). Although Hill maintains that Anderson could have referred to an ambiguous "prior hearing" during her testimony, the State is entitled to rebut the testimony, which could have included a reference to Hill's prior trial and conviction. Therefore, we conclude that the district court did not abuse its discretion in excluding Detective Anderson's testimony.

We commend the district court for properly balancing Hill's due process rights with judicial efficiency. See Rodriguez v. Dist. Ct., 120 Nev. 798, 810, 102 P.3d 41, 49 (2004). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Michelle Leavitt, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk