IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN ROBINSON, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 34933

FILED

APR 02 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY [signature]
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

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. Appellant Bryan Robinson was sentenced to two consecutive terms of life imprisonment with the possibility of parole. Robinson raises several issues.

Robinson complains that the district court erred in instructing the jury concerning aiding and abetting. He asserts that there was no evidence that he assisted any other individual in committing the crime and thus that the instruction prejudiced him because some members of the jury might have relied on the theory in returning a guilty verdict. We do not agree.

Robinson and several other individuals were involved in an altercation with the victim. The State presented strong evidence that Robinson threatened to kill the victim and fired at least one shot at him. The defense presented witnesses who indicated that they saw someone other than Robinson shooting the victim. The doctor who performed the autopsy testified that the trajectories of the victim's bullet wounds were consistent with the possibility of shots fired by more than one shooter. Robinson cites our decision in Labastida v.

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State[1] in arguing that this evidence was not sufficient to prove that he aided and abetted another person in murdering the victim. However, the evidence in Labastida established only that the appellant was present at the scene, not that she inflicted any injuries or knowingly and intentionally aided and abetted her husband in killing their son.[2] Here, by contrast, the evidence was sufficient for jurors to find beyond a reasonable doubt that Robinson murdered the victim directly.[3] Even if a juror might possibly have had a reasonable doubt that Robinson fired the fatal shots, the juror could still have reasonably found from Robinson's words and actions and the total circumstances that he acted with and abetted others in the murder.

Next, Robinson complains that the district court denied several motions for mistrial made by the defense. He concedes that each alleged error prompting each motion might not have been sufficient to warrant a mistrial, but he claims that the cumulative effect of the alleged errors warrants reversal. Robinson identifies four grounds for mistrial: 1) outside of the courtroom, members of the jury panel discussed the voir dire questions that the court had asked; 2) uniformed corrections officers entered the courtroom in the presence of the jury and sat behind Robinson; 3) a State witness testified

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[1]115 Nev. 298, 986 P.2d 443 (1999).

[2]See id. at 304, 986 P.2d at 447.

[3]This also is an adequate ground for Robinson's conviction. Even if the evidence of aiding and abetting had been insufficient, reversal is not required where one basis for a conviction is not supported by sufficient evidence as long as that basis was not legally inadequate and an alternative basis was supported by sufficient evidence. See Griffin v. United States, 502 U.S. 46, 56-60 (1991). "[A]lthough a jury is unlikely to disregard a theory flawed in law, it is indeed likely to disregard an option simply unsupported by evidence." Sochor v. Florida, 504 U.S. 527, 538 (1992).

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that members of the Bloods regularly visited her home even though she had been instructed not to refer to gangs during her testimony; and 4) a police detective speculated that a photo of the defendant came from an investigation by other detectives.

First, Robinson provides no apposite authority for his claim of juror misconduct, citing only Rowbottom v. State.[4] Rowbottom involved a juror who made extensive out-of-court factual investigations and communicated her findings to other jurors.[5] Robinson fails to show that the district court erred in determining that the jurors' discussion of voir dire questions did not prejudice him. Second, Robinson offers no authority at all for his claim that the presence of uniformed officers prejudiced him. This court will not consider assignments of error that are not supported by relevant legal authority.[6] Third, we deem inconsequential the single remark by one witness that "a lot of the Bloods" had frequented her home along with Robinson and another individual.[7] Fourth, we also consider inconsequential the detective's speculation that the photo came from an investigation by other detectives. The remark did not directly refer to any criminal activity by Robinson, and the district court remedied any conceivable harm

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[4]105 Nev. 472, 485-87, 779 P.2d 934, 942-43 (1989).

[5]Id. at 478-79, 779 P.2d at 938.

[6]Jones v. State, 111 Nev. 848, 855, 899 P.2d 544, 547-48 (1995).

[7]See Ewish v. State, 110 Nev. 221, 234, 871 P.2d 306, 315 (1994) (concluding that a few gang references during a four-week trial were innocuous and inconsequential since they did not directly label the appellant a gang member and the jury might not have understood the comments to be gang related).

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by admonishing the jury to disregard the remark because the detective did not know the source of the photo.[8]

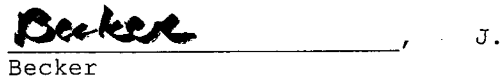
Robinson has failed to establish that the district court erred in denying the requests for mistrial or that any cumulative error warrants reversal of the conviction.

Finally, Robinson contends that the district court erroneously admitted autopsy photos that were unfairly prejudicial to the defense. We conclude that the district court acted within its sound discretion in admitting the photos.[9] Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Young, J.

Leavitt, J.


Becker, J.

cc: Hon. Lee A. Gates, District Judge
Attorney General
Clark County District Attorney
Scott L. Bindrup
Clark County Clerk

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[8] See Allen v. State, 99 Nev. 485, 490-91, 665 P.2d 238, 241-42 (1983) (holding that mistrial was properly denied despite witness's testimony that murder defendant had admitted to an unrelated killing of another man).

[9] See, e.g., Byford v. State, 116 Nev. 215, 231, 994 P.2d 700, 711, cert. denied, 121 S. Ct. 576 (2000).

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