

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL JOHN STONE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34938

**FILED**

NOV 20 2000

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 guilty plea, of two counts of burglary. The district court sentenced appellant to serve two consecutive terms of 36 to 120 months in prison.

Appellant first contends that he has a right to represent himself on direct appeal from the judgment of conviction. We disagree. As we have explained in two previous orders in this matter,<sup>1</sup> appellant does not have a constitutional right to represent himself on appeal. See *Martinez v. Court of Appeal*, 528 U.S. 152 (2000); *Blandino v. State*, 112 Nev. 352, 914 P.2d 624 (1996).

Appellant next argues that (1) his procedural rights were violated when the justice court continued the preliminary hearing and the State then proceeded to obtain an indictment from a grand jury; and (2) his right to a speedy trial was violated. However, by entering a guilty plea, appellant waived all errors arising prior to the plea. See *Warden v. Lyons*, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984); *Webb v. State*, 91 Nev. 469, 538 P.2d 164, 165 (1975).

<sup>1</sup>See *Stone v. State*, Docket No. 34938 (Order, March 10, 2000); *Stone v. State*, Docket No. 34938 (Order, October 18, 2000).

Appellant also argues that the evidence merely establishes that he was present when another individual committed the criminal acts underlying the conviction. He essentially claims that the State did not have sufficient evidence to support a conviction. However, by pleading guilty, appellant admitted the charges in the indictment. "The issue of guilt was thereby removed from the case." *Bounds v. Warden*, 91 Nev. 428, 430, 537 P.2d 475, 476 (1975). We therefore conclude that appellant cannot now complain that the State lacked sufficient evidence to support a conviction.

Finally, appellant contends that the burglary statute is unconstitutional because it "prevents his proper authority to enter" commercial establishments that are open to the public. We disagree.

NRS 205.060(1) provides that "[a] person who, by day or night, enters any . . . store . . . or other building . . . with the intent to commit grand or petit larceny, assault or battery on any person or any felony, is guilty of burglary." We have previously explained that:

Our statute requires only an entry with the intent to commit larceny or other felony. The authority to enter a building open to the public extends only to those who enter with a purpose consistent with the reason the building is open. A criminal intent formulated after a lawful entry will not satisfy the statute. On the other hand, an entry with intent to commit larceny cannot be said to be within the authority granted customers of a business establishment. Indeed, even if a consensual entry is implied, it is not a defense to a charge of burglary against one who is shown to have made a simple entry with larcenous intent.

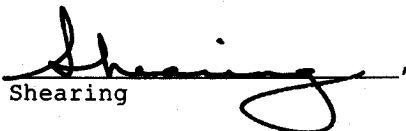
*State v. Adams*, 94 Nev. 503, 505, 581 P.2d 868, 869 (1978) (citations omitted).

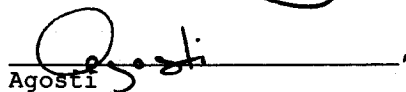
We conclude that NRS 205.060 is not unconstitutional. The statute does not prohibit appellant from entering a commercial establishment. Rather, it prohibits appellant from entering such an establishment with

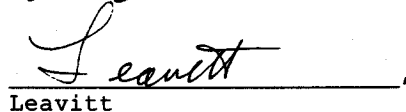
the intent to commit a felony. Such criminal conduct is not constitutionally protected. We therefore conclude that appellant has failed to demonstrate that NRS 205.060 is unconstitutional.

Having considered appellant's contentions and concluded that they lack merit or were waived by entry of the guilty plea, we affirm the judgment of conviction.

It is so ORDERED.

  
Shearing, J.

  
Agosti, J.

  
Leavitt, J.

cc: Hon. Jerome M. Polaha, District Judge  
Attorney General  
Washoe County District Attorney  
Karla K. Butko  
Washoe County Clerk