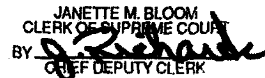
IN THE SUPREME COURT OF THE STATE OF NEVADA

NICHOLAS JOHN THEIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 34946

FILED

MAY 10 2000



ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of robbery with the use of a deadly weapon. The district court sentenced appellant to two consecutive prison terms of seventy-two to one hundred eighty months. The district court also ordered appellant to pay $232.39 in extradition costs and a $25.00 administrative fee.

Appellant first argues that the district court erred in admitting evidence of a subsequent bad act. Specifically, appellant refers to testimony from an individual who identified appellant as the perpetrator of a robbery that occurred in Boise, Idaho four days after the offense in the present case. That individual also testified that in the Boise robbery, appellant was wearing clothing similar to that worn in the present offense and, as in the present offense, was carrying a handgun.

We have held that

> evidence of other wrongs cannot be admitted at trial solely for the purpose of proving that a defendant has a certain character trait and acted in conformity with that trait on the particular occasion in question. NRS 48.045(1). However, evidence of other wrongs may be admitted for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, and absence of mistake or accident. NRS 48.045(2). Prior to admission of such evidence, the trial court must conduct a hearing on the record and determine (1) that the evidence is relevant to the crime charged; (2) that the other act is proven by clear and convincing evidence; and (3) that the probative value of the other act is not substantially outweighed by the danger of unfair prejudice. Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064-65 (1997); Armstrong v. State, 110 Nev. 1322, 1323-24, 885 P.2d 600, 600-01 (1994). The trial court's determination to admit or exclude evidence is to be given great deference and will not be reversed absent manifest error. Bletcher v. State,

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111 Nev. 1477, 1480, 907 P.2d 978, 980 (1995) (citing Kazalyn v. State, 108 Nev. 67, 825 P.2d 578 (1992)); [Petrocelli v. State, 101 Nev. 46, 52, 692 P.2d 503, 508 (1985)].

Qualls v. State, 114 Nev. 900, 902, 961 P.2d 765, 766 (1998).

Here, the district court considered the parties' arguments and, in a detailed written order, concluded that the evidence of the Boise robbery satisfied the requirements listed in Qualls. After a review of the record, we conclude the district court did not err in admitting this evidence.

Appellant next argues that the district court erred in denying his pretrial petition for a writ of habeas corpus. In the petition, appellant argued that insufficient evidence existed to bind him over for trial on the robbery charge. Appellant's argument is completely without merit. We conclude sufficient evidence existed to find that appellant used force to retain possession of the cigarettes and/or facilitate his escape. See NRS 200.380.

Having considered appellant's contentions and concluded they are without merit, we

ORDER this appeal dismissed.

Young, J.

Agosti, J.

Leavitt, J.

cc: Hon. J. Michael Memeo, District Judge
Attorney General
Elko County District Attorney
Elko County Public Defender
Elko County Clerk

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