

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICKY LEE PATE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 34989

FILED

JUN 13 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. Smith*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of burglary and grand larceny auto. The district court sentenced appellant to two concurrent prison terms of forty-eight to one hundred twenty months. The district court also ordered appellant to pay \$697.20 in extradition costs, a \$25.00 administrative fee, and a \$250.00 fee for genetic marker testing.

Appellant first argues that the district court erred in denying appellant's motion in limine to exclude reference to a witness' religious affiliation. Appellant contends that the State's reference to the fact that a witness was a bishop with The Church of Jesus Christ of Latter-Day Saints prejudiced appellant because it had the effect of enhancing the witness' credibility. We disagree.

NRS 50.105 provides that a witness' religious beliefs may not be used as evidence for the purpose of enhancing or impairing that witness' credibility. Here, the

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State referenced the witness' affiliation with The Church of Jesus Christ of Latter-Day Saints to lay the foundation of how the witness came into contact with appellant. Specifically, appellant was referred to the witness through the Latter Day Saints Religious Institute in Seattle, Washington. After a review of the record, we conclude that the State did not use this religious affiliation for the purpose of enhancing the credibility of the witness' testimony. Thus, we conclude that the district court properly denied appellant's motion in limine, and therefore, appellant's argument is without merit.

Appellant next argues that the district court violated his Sixth Amendment right to counsel by failing to provide appellant with a full and fair opportunity to conduct voir dire. Appellant argues that the district court improperly limited the scope of juror questioning during voir dire such that appellant was not allowed to fully explore the religious affiliations of the jurors.

We first note that while appellant's counsel initially argued for detailed questioning into juror's religious affiliations, counsel then abandoned the argument prior to any formal ruling by the district court. Appellant's counsel stated, "Upon reconsideration, your Honor, let's just leave the LDS issue alone and leave it at that." The district court acknowledged counsel's abandonment of the issue, stating, "All right. I won't touch it because you don't want me to. All right." Thus, we conclude that counsel's

abandonment of the issue prior to any formal ruling on questions submitted to the jurors constitutes a waiver of this issue on appeal. However, even assuming that the issue was somehow properly preserved for our review, we conclude that the district court did not err. The district court is afforded discretion in setting the method and scope of questioning in voir dire. *Summers v. State*, 102 Nev. 195, 199, 718 P.2d 676, 679 (1986). Here, the district court did not prohibit all inquiry into potential religious bias among the jurors. Instead, the district court expressed that appellant's concerns with potential bias could be sufficiently handled by asking the jurors whether they would have difficulty remaining impartial given that one of the State's witnesses was a bishop with The Church of Jesus Christ of Latter-Day Saints. We conclude this does not constitute an abuse of discretion.

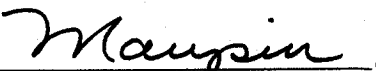
Last, appellant argues that there was insufficient evidence to sustain his conviction for grand larceny auto. Specifically, appellant argues that the State failed to prove that he intended to permanently deprive the victim of the automobile. Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. See *Wilkins v. State*, 96 Nev. 367, 609 P.2d 309 (1980).

In particular, we note the evidence adduced at trial established that appellant unlawfully took the vehicle without

the owner's permission, drove it to Washington State, and removed the license plates before abandoning it. We conclude that this is sufficient to sustain appellant's conviction for grand larceny of a motor vehicle. See NRS 205.228. Contrary to appellant's assertions, the fact that appellant abandoned the vehicle in a "lower to middle class residential neighborhood" where it was "very likely" that it would be recovered is of no consequence.

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


ORDER this appeal dismissed.



Maupin J.



Shearing J.




Becker J.

cc: Hon. Joseph T. Bonaventure, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk

appendix within fifteen (15) days of this order or show cause why Wolfbrandt should not be sanctioned.

It is so ORDERED.

 _____, C.J.

cc: Attorney General
Clark County District Attorney
William L. Wolfbrandt, Jr.