


IN THE SUPREME COURT OF THE STATE OF NEVADA

ALFONSO MONTES SANCHEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55373

FILED

SEP 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER AFFIRMING AND REMANDING

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of two counts of sale of a controlled substance. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

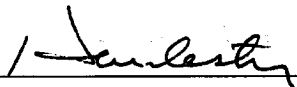
First, appellant Alfonso Montes Sanchez contends that insufficient evidence was adduced to support the jury's verdict. When viewed in the light most favorable to the State, however, the evidence is sufficient to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. See Jackson v. Virginia, 443 U.S. 307, 319 (1979); Mitchell v. State, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). At trial, four LVMPD undercover narcotics detectives testified that Sanchez was involved in the sale of methamphetamine; on two occasions, Sanchez sold approximately 3.5 grams to Detective Michael McIlroy. It is for the jury to determine the weight and credibility to give conflicting testimony, and a jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. See NRS 453.321(1)(a); McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992); Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

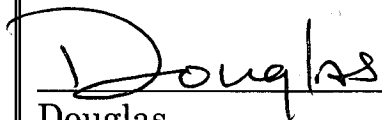
Second, Sanchez contends that the district court erred by allowing the admission of irrelevant and prejudicial evidence, specifically, (1) why similar undercover drug transactions are not recorded, and (2) why the “buy money” is often not recovered. “It is within the district court’s sound discretion to admit or exclude evidence, and this court will not overturn [the district court’s] decision absent manifest error.” Means v. State, 120 Nev. 1001, 1008, 103 P.3d 25, 29 (2004) (footnote and quotation omitted) (alteration in original). Here, the district court overruled Sanchez’s objection to the State’s line of questioning pertaining to the absence of a video or audio recording of the undercover transaction. We conclude that the evidence was relevant and its probative value was not substantially outweighed by the danger of unfair prejudice. See NRS 48.015; NRS 48.035(1). Therefore, we conclude that the district court did not abuse its discretion. Further, Sanchez failed to object to the content of the “buy money” line of questioning, and we conclude that he has failed to satisfy his burden and demonstrate that he was prejudiced in any way amounting to reversible plain error. See NRS 178.602; Valdez v. State, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008).


Third, Sanchez contends that the prosecutor committed misconduct during rebuttal closing argument by minimizing the State’s burden of proof. Sanchez failed to object to the challenged argument and has failed to satisfy his burden and demonstrate reversible plain error. See NRS 178.602; Knight v. State, 116 Nev. 140, 144-45, 993 P.2d 67, 71 (2000) (“A prosecutor’s comments should be viewed in context, and ‘a criminal conviction is not to be lightly overturned on the basis of a prosecutor’s comments standing alone.’” (quoting United States v. Young, 470 U.S. 1, 11 (1985))).

Finally, we note that the judgment of conviction contains an error and states that Sanchez was convicted pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. Therefore, we remand the matter to the district court for the entry of a corrected judgment of conviction following the issuance of the remittitur. See NRS 176.565 (providing that clerical errors in judgments may be corrected at any time); Buffington v. State, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994) (the district court does not regain jurisdiction following an appeal until the supreme court issues its remittitur). Accordingly, we

ORDER the judgment of conviction AFFIRMED AND REMAND this matter to the district court for proceedings consistent with this order.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

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

¹Sanchez also contends that cumulative error requires the reversal of his conviction. Balancing the relevant factors, we conclude that Sanchez's contention is without merit. See Valdez, 124 Nev. at 1195, 196 P.3d at 481.