IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN L. TIPPENS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55399

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of robbery with the use of a deadly weapon, victim 60 years of age or older, and possession of a firearm by an ex-felon. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge. Appellant Kevin L. Tippens raises two contentions on appeal.

First, Tippens argues that the district court erred in refusing to admit his statement to police, which exculpated him of the charged robbery offense while incriminating him on lesser offenses related to trading drugs for a car he believed to be stolen. See NRS 51.345(1). He contends that the district court erred assessing the credibility of the statement and determining that it was untrustworthy. He further argues that the district court's decision denied him a fair opportunity to present a defense. We disagree. Although the statement alluded to criminal conduct, it was for a less significant crime than the crime for which Tippens was arrested and was not serious considering his prior criminal history. Thus, we cannot conclude that the district court abused its

discretion in considering the circumstances under which the statement was uttered and excluding it as hearsay. NRS 51.345(1) (requiring district court to evaluate a statement against interest to determine whether "a reasonable person in the position of the declarant would not have made the statement unless the declarant believed it to be true"); see Collman v. State, 116 Nev. 687, 702, 7 P.3d 426, 436 (2000) (reviewing decision to admit evidence for abuse of discretion); see also United States v. Monaco, 735 F.2d 1173, 1176-77 (9th Cir. 1984) (recognizing that an apparent inculpatory statement may not qualify as against interest where it was "made with the purpose of placating the authorities or diverting their attention"). Further, the refusal to admit the statement did not deny Tippens the opportunity to present a complete defense. See Taylor v. Illinois, 484 U.S. 400, 410 (1988) ("The accused does not have an unfettered right to offer testimony that is incompetent, privileged, or otherwise inadmissible under standard rules of evidence.").

Second, Tippens argues that the district court erred in overruling his objection to the State's use of peremptory challenges on the basis of race in violation of Batson v. Kentucky, 476 U.S. 79 (1986). We conclude that Tippens failed to demonstrate any error under Batson because the prosecutor provided race-neutral explanations for dismissing the two prospective jurors and there is nothing in the record to suggest that the challenges were anything but race-neutral. See id. at 96-98 (establishing three-part test for determining whether the State purposefully discriminated in the exercise of a peremptory challenge).

Having considered Tippens' contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

_____, J.
Hardesty

_____, J.
Douglas

_____, J.
Pickering

cc: Hon. Douglas W. Herndon, District Judge
Attorney General/Carson City
Clark County District Attorney
Law Office of Betsy Allen
Eighth District Court Clerk