

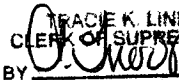
IN THE SUPREME COURT OF THE STATE OF NEVADA

STACEY WAYNE CROUSE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55736

FILED

NOV 08 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of possession of a controlled substance. First Judicial District Court, Carson City; James Todd Russell, Judge.

Sufficiency of evidence

Appellant Stacey Wayne Crouse contends that there was insufficient evidence to support his conviction for possession of a controlled substance. We review the evidence in the light most favorable to the prosecution and determine whether any rational juror could have found the essential elements of the crime beyond a reasonable doubt. McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). The jury heard testimony that a sheriff's deputy initiated a traffic stop, impounded Crouse's car, and conducted an inventory search. During the inventory search, Crouse twice approached his car and asked the deputy if he could retrieve his backpack. When the deputy searched the backpack, he found three bags containing a crystal substance, which was later proved to be methamphetamine, and a glass pipe. We conclude that a rational juror could reasonably infer from this testimony that Crouse possessed a controlled substance in violation of NRS 453.336(2)(a). It is for the jury to

determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, sufficient evidence supports the verdict. Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

Fourth Amendment issues

Crouse contends that the district court erred by denying his pretrial motion to suppress evidence obtained during the inventory search of his car. In evaluating Fourth Amendment challenges, “[w]e review the district court’s findings of historical fact for clear error but review the legal consequences of those factual findings de novo.” Somee v. State, 124 Nev. 434, 441, 187 P.3d 152, 157-58 (2008). The district court conducted an evidentiary hearing on Crouse’s suppression motion and found that the reasons for making the traffic stop and impounding the car were valid, the deputy’s inventory search was sloppy and did not fully conform with the regulations governing inventory searches of cars, the inventory search was not a ruse to conduct an investigation or search for drugs or contraband, and the deputy executed the inventory search in good faith. The district court’s factual findings are supported by the record and are not clearly erroneous. We conclude that the district court properly determined that the inventory search did not violate the federal and state constitutions. See U.S. Const. amend. IV; Nev. Const. art. 1, § 18; Diomampo v. State, 124 Nev. 414, 432, 185 P.3d 1031, 1042 (2008); Weintraub v. State, 110 Nev. 287, 871 P.2d 339 (1994).

Crouse further contends that the district court erred by denying his motion to suppress evidence based on a facially defective search warrant. Crouse made this motion on the second day of trial. The district court heard argument, found that Crouse had the opportunity to

make this motion before the trial, and denied the motion pursuant to NRS 174.125(1) (motions to suppress evidence must be made before trial, unless the opportunity to make the motion or the grounds for the motion did not exist before trial). The record supports the district court's factual finding and we conclude that the district court did not err by denying Crouse's motion to suppress.

Prosecutorial misconduct

Crouse contends that the district court erred by denying his motion for a mistrial based on prosecutorial misconduct. We review a district court's decision to grant or deny a motion for a mistrial for an abuse of discretion. Ledbetter v. State, 122 Nev. 252, 264, 129 P.3d 671, 680 (2006). During his cross-examination of a defense witness, the prosecutor asked, "You're not the most honest person in the world, are you?" and whether the witness had previously been charged with a burglary. The district court sustained Crouse's objections to both questions and admonished the jury that it could only consider crimes that resulted in convictions. Crouse subsequently moved for a mistrial based on the prosecutor's misconduct. The district court heard argument on the motion, determined that further admonishing the jury would cure the errors, and denied the motion for a mistrial. We conclude that Crouse has not demonstrated that the district court abused its discretion by denying his motion for a mistrial. See Greene v. State, 113 Nev. 157, 170, 931 P.2d 54, 62 (1997) (concluding there was no prejudice when the district court sustained a defense objection to a prosecutor's "patently improper statement" and admonished the jury), overruled on other grounds by Byford v. State, 116 Nev. 215, 235, 994 P.2d 700, 713 (2000).

Having considered Crouse's contentions and concluded that he is not entitled to relief, we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. James Todd Russell, District Judge
Attorney General/Carson City
Carson City District Attorney
State Public Defender/Carson City
Carson City Clerk