

IN THE SUPREME COURT OF THE STATE OF NEVADA

JENNIFER L. CALDWELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 55907

**FILED**

MAY 10 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

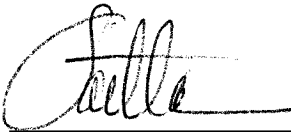
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of battery by a prisoner. Eighth Judicial District Court, Clark County; Abbi Silver, Judge.

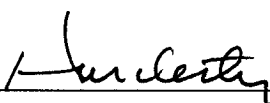
Appellant Jennifer Caldwell contends that the district court abused its discretion by striking her testimony, on cross-examination, that she had post-traumatic stress disorder (PTSD). The district court struck Caldwell's testimony ruling that she was not competent to "say anything of that sort." Caldwell asserts that this ruling improperly prevented her from presenting evidence in support of one of her theories of the case—that the movement depicted on the video of the offense was a flinch, she did not bite the officer, and an accidental movement or reaction is insufficient to constitute battery. We conclude that Caldwell's diagnosis of PTSD was not relevant to her theory of defense or any of the elements of the charged offense. See NRS 48.015 (defining relevant evidence); NRS 200.481(1)(a), (2)(f) (battery by a prisoner). Even assuming that Caldwell's testimony was relevant, it was only admissible if it otherwise complied with the rules of evidence, see NRS 48.025(1)(a), and Caldwell does not challenge the district court's determination that she was not

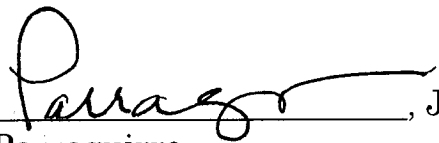
competent to testify regarding her diagnosis. Accordingly, we conclude that Caldwell has failed to demonstrate that the district court abused its discretion by prohibiting this testimony. See Chavez v. State, 125 Nev. \_\_\_, \_\_\_, 213 P.3d 476, 487 (2009) (the district court's decision to exclude or admit evidence is reviewed for an abuse of discretion).

Caldwell also contends that the prosecutor committed misconduct by suggesting that she could be convicted for her use of words. We disagree. The prosecutor's argument did not suggest that Caldwell could be convicted for her use of bad language, but rather asked the jury to draw an inference from Caldwell's use of abusive language. See Bridges v. State, 116 Nev. 752, 762, 6 P.3d 1000, 1008 (2000) (the State may comment on the evidence presented and ask the jury to make reasonable inferences therefrom). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Abbi Silver, District Judge  
Law Office of Lisa Rasmussen  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk