

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL J. HAASE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56210

FILED

APR 28 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of three counts of lewdness with a child under 14 years of age. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.


Appellant Michael J. Haase argues that the district court erred by admitting the victim's shorts, which showed the presence of his DNA, due to (1) a two-week gap between the incident and collection of the shorts by the police and (2) the absence of a competent in-court identification of the shorts as those collected by the police for testing. We conclude that Haase's claims lack merit. The State established a sufficient chain of custody while the evidence was in police custody through a police detective's testimony that the shorts admitted at trial were those he collected from the victim's mother. See Franko v. State, 94 Nev. 610, 613, 584 P.2d 678, 679 (1978) (stating that proper foundation for admission of physical evidence is established by chain of custody or identification by appropriate witness); Burns v. Sheriff, 92 Nev. 533, 534-35, 554 P.2d 257, 258 (1976). Haase's concerns regarding possible modifications to the shorts, such as laundering, before they were taken into police custody goes to the weight of the evidence, not its admission.

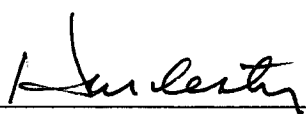
See Franko, 94 Nev. at 613, 584 P.2d at 679 (concluding that victim's possession of blouse, which had been torn during offense, and attempted mending of blouse went to weight of evidence, not admissibility).

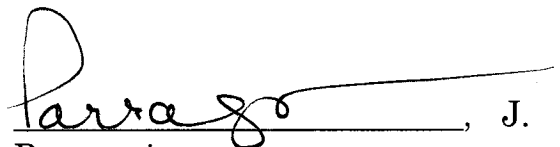
Haase next argues that the district court erred by not admitting evidence that he passed a polygraph examination. "[P]olygraph results may be considered reliable when taken under proper conditions and with proper safeguards in place," including a written stipulation signed by the parties. Jackson v. State, 116 Nev. 334, 335-36, 997 P.2d 121, 121-22 (2000). Here, because no written stipulation was accomplished, the district court properly excluded the evidence. Id. at 336, 997 P.2d at 122. ("Absent a written stipulation, polygraph evidence may properly be excluded."). Moreover, the parties stipulated to allowing a police detective to testify that he told the victim that Haase had passed a polygraph test to assess whether the victim had fabricated the allegations. The police detective testified that the ruse created some doubt in the victim about whether the crimes occurred. Although the stipulation fails to satisfy the concerns Haase now raises about the district court's refusal to admit the polygraph results, we discern no error.

Having considered Haase's claims and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.


Saitta _____, J.


Hardesty _____, J.


Parraguirre _____, J.

cc: Hon. Elissa F. Cadish, District Judge
Law Offices of James Hartsell
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk