IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONIO CARDENAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56360

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of second-degree murder with the use of a deadly weapon. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant Antonio Cardenas and his older brother, Luis Cardenas-Ornelas, were involved in a drive-by shooting in Reno, Nevada. One brother shot and killed Michael Vega while the other brother drove the vehicle. There was conflicting testimony about which brother was driving and which brother was shooting. Upon being taken into custody by the police, Antonio admitted to firing the gun, but several days later he stated that Luis fired the gun and that he drove the vehicle. Likewise, Luis originally stated that he drove the vehicle and that Antonio fired the gun, but subsequently admitted on two separate occasions to firing the gun. The district court precluded Luis's prior consistent statements and Antonio's second statement to the police. Antonio and Luis were tried separately. Ultimately, a jury convicted Antonio of second-degree murder with the use of a deadly weapon, and the district court sentenced him to life in prison with the possibility of parole after ten years.[1]

[1]The parties are familiar with the facts, and we do not recount them further except as necessary to our disposition.

On appeal, Antonio argues that the district court abused its discretion when it precluded him from introducing Luis's prior consistent statements. Antonio also argues that his second statement to the police was admissible under NRS 47.120(1). We conclude that these arguments are not meritorious.[2] Therefore, we affirm the judgment of conviction.

Luis's prior consistent statements are not admissible

Antonio contends that the district court should have admitted Luis's prior consistent statements. We disagree.

This court reviews a district court's hearsay rulings for an abuse of discretion. Fields v. State, 125 Nev. ___, ___, 220 P.3d 709, 716 (2009).

In order for a prior consistent statement to be admissible under an exception to the hearsay rule, the statement "must have been made at a time when the declarant had no motive to fabricate." Runion v. State, 116 Nev. 1041, 1052, 13 P.3d 52, 59 (2000); see NRS 51.035(2)(b). The record reveals that Luis had motivation to fabricate when he obtained knowledge that Antonio had been arrested, when he learned that his mother was angry with him, and by reason of his recent arrest. See Cheatham v. State, 104 Nev. 500, 503, 761 P.2d 419, 421 (1988) (providing that "[b]eing arrested for murder can certainly motivate one to lie."). Accordingly, we conclude that the statements were not admissible as a

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[2]Additionally, Antonio argues that the district court erred when it denied his pretrial challenge to the information and by giving erroneous felony-murder jury instructions. He further argues that the district court abused its discretion by admitting the gun into evidence. We have reviewed these arguments and conclude that they lack merit. Finally, Antonio argues that cumulative error warrants reversal. Because Antonio failed to demonstrate any error, we conclude that his contention lacks merit. See Big Pond v. State, 101 Nev. 1, 3, 692 P.2d 1288, 1289 (1985).

prior consistent statement and that the district court did not abuse its discretion in refusing to allow Luis to testify concerning his statements.

Antonio's second statement is not admissible

Antonio contends that his second statement to the police was admissible pursuant to NRS 47.120(1). We disagree.

We review questions of statutory interpretation de novo. Firestone v. State, 120 Nev. 13, 16, 83 P.3d 279, 281 (2004). In determining whether NRS 47.120(1) authorized Antonio to introduce his second statement made to the police, this court must construe the statute to effectuate the Legislature's intent. State v. Catanio, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004). Generally, statutes are given their plain meaning, construed as a whole, and read in a manner that makes the words and phrases essential and the provisions consequential. Mangarella v. State, 117 Nev. 130, 133, 17 P.3d 989, 991 (2001). As such, if a statute's language is clear and the meaning plain, this court will enforce the statute as written. Hobbs v. State, 127 Nev. ___, ___, 251 P.3d 177, 179 (2011).

NRS 47.120(1) provides that "[w]hen any part of a writing or recorded statement is introduced by a party, the party may be required at that time to introduce any other part of it which is relevant to the part introduced, and any party may introduce any other relevant parts." (emphasis added). Thus, the statute permits a party "to introduce any other relevant parts" of a written or recorded statement when part of a written or recorded statement is selectively presented apart from the context of other portions of the statement. Collman v. State, 116 Nev. 687, 707, 7 P.3d 426, 439 (2000); see Beech Aircraft Corp. v. Rainey, 488 U.S. 153, 172 (1988) (stating that "when one party has made use of a portion of

a document, such that misunderstanding or distortion can be averted only through presentation of another portion, the material required for completeness is ipso facto relevant"). Based on the plain language of the statute, we conclude that NRS 47.120(1) is only applicable to a single written or recorded statement and cannot be used to admit separate statements. See Johnson v. State, 823 So.2d 1, 39 (Ala. Crim. App. 2001) (declaring that "the doctrine of completeness does not extend beyond a single conversation."). Therefore, we conclude that NRS 47.120(1) bars admission of Antonio's second statement to police and, thus, the district court did not err in precluding Antonio from offering his second statement to the police.

Having considered Antonio's arguments and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.

Gibbons, J.

Pickering, J.

cc: Hon. Janet J. Berry, District Judge
Janet S. Bessemer
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk