

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRETT COMBS A/K/A BRETT
CLINTON COMBS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56578

FILED

JUN 08 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 entered pursuant to a jury verdict of 21 counts of possession of stolen property. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Other bad acts evidence

Appellant Brett Combs contends that the district court abused its discretion by admitting evidence of other bad acts because the evidence was more prejudicial than probative, portrayed him as a bad person, forced him to defend against uncharged crimes, and unnecessarily inflamed the jury. We review the district court's decision to admit evidence of other bad acts for an abuse of discretion and will not reverse that decision absent manifest error. Ledbetter v. State, 122 Nev. 252, 259, 129 P.3d 671, 676 (2006). Here, the district court conducted a hearing pursuant to Petrocelli v. State, 101 Nev. 46, 51-52, 692 P.2d 503, 507-08 (1985), modified on other grounds by Sonner v. State, 112 Nev. 1328, 1334, 930 P.2d 707, 711-12 (1996), found that the factors for determining admissibility of bad acts evidence were met, see Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064-65 (1997), and ruled that the bad acts evidence was admissible to show knowledge, see NRS 48.045(2). We

conclude that the district court's decision to admit the other bad acts evidence did not constitute manifest error.

Suppression motion

Combs contends that the district court abused its discretion by denying his motion to suppress because a parole and probation officer was used as a "stalking horse" by the Las Vegas Metropolitan Police Department (LVMPD) to circumvent his Fourth Amendment protections against unreasonable search and seizure. 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). Here, the district court found that Combs was on supervised parole, his parole and probation officer received information from the LVMPD that Combs was planning an armed robbery, the parole and probation officer had a reasonable suspicion that Combs was in possession of weapons and was planning additional crimes in violation of his parole, and the search was authorized by the conditions of Combs' parole. The district court's factual findings are supported by the record and are not clearly erroneous, and we conclude that the district court properly determined that the search did not violate the Fourth Amendment. See U.S. Const. amend. IV; United States v. Knights, 534 U.S. 112, 122 (2001) (a warrantless search of a probationer's home is reasonable under the Fourth Amendment if supported by reasonable suspicion and authorized by the conditions of his probation).

Sufficiency of the evidence

Combs contends that insufficient evidence supports his convictions because a witness failed to pick him out of a photo line-up, a


parole and probation officer indicated that he was not the legal owner of the residence and testified that no male belongings were found in the bedroom containing the stolen jewelry, and no fingerprint evidence linked him to the jewelry. 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).

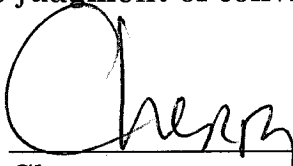
The jury heard testimony that Combs notified his parole and probation officer of his new address. When officers went to that address to conduct a search, Combs indicated which bedroom was his. In that bedroom, officers found Combs' wallet and identification and photographs of him and his girlfriend. The officers also found jewelry, various glass smoking pipes, and digital scales in the closet and bathroom attached to the bedroom. The jury also heard testimony that Combs robbed two stores in Colorado. The victims of those robberies identified Combs as the robber and identified the jewelry, glass pipes, and digital scales as merchandise taken from the stores.

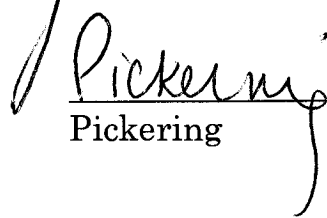
Based on this testimony, we conclude that a rational juror could reasonably infer that Combs had possession or constructive possession of merchandise that he knew or had reason to know was stolen. See NRS 205.275(1). It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

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

ORDER the judgment of conviction AFFIRMED.


Gibbons J.


Cherry, J.


Pickering, J.

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