

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID EDGAR POPE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57390

FILED

JUL 14 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Ince*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of propelling and one count of assault on an officer while in lawful custody. Seventh Judicial District Court, White Pine County; Dan L. Papez, Judge.


Appellant David Edgar Pope contends that the lower court improperly admitted evidence under the res gestae doctrine and that by doing so his defense was prejudiced. See NRS 48.035(3). Pope claims that evidence of his conduct at Champ's Sports Bar prior to the arrival of police officers was not necessary to adequately describe the charged criminal activity. We review the district court's decision to admit evidence for abuse of discretion and will not overturn that decision absent manifest error. Ledbetter v. State, 122 Nev. 252, 259, 129 P.3d 671, 676 (2006).

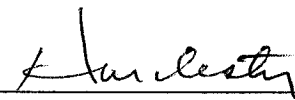
Pope was charged with a crime that requires the State to prove that he was in lawful custody. See NRS 200.471(2)(d); see also Robinson v. State, 117 Nev. 97, 99-100, 17 P.3d 420, 422 (2001) (reversing defendant's conviction because he was in civil protective custody and not criminal custody). Because all of the circumstances surrounding Pope's initial arrest for disturbing the peace took place inside Champ's Sports Bar, the district court did not abuse its discretion by allowing the events

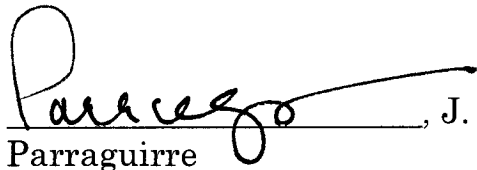
prior to the arrival of police officers to be described to the jury. These events were inextricably intertwined with the reason for the police officers' arrival and Pope's subsequent arrest. See State v. Shade, 111 Nev. 887, 894, 900 P.2d 327, 331 (1995) (explaining that "the controlling question is whether witnesses can describe the crime charged without referring to related uncharged acts").

Having considered Pope's contention and concluded that it is without merit we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Dan L. Papez, District Judge
State Public Defender/Ely
State Public Defender/Carson City
White Pine County District Attorney
Attorney General/Reno
White Pine County Clerk