


IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL GARROW,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57665

FILED

FEB 08 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit robbery, burglary while in possession of a deadly weapon, and two counts of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Appellant Michael Garrow contends that the district court erred by admitting evidence of a prior bad act because it was not relevant to the charged crimes or proven by clear and convincing evidence, and its probative value was substantially outweighed by the danger of unfair prejudice. See 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 & n.4, 930 P.2d 707, 711-12 & n.4 (1996). We review the district court's decision to admit evidence of prior bad acts for an abuse of discretion and will not reverse "absent manifest error." Fields v. State, 125 Nev. 785, 789, 220 P.3d 709, 712 (2009) (internal quotation marks omitted).

The district court conducted a hearing and determined that evidence of the business dispute between Garrow and the victim was relevant to demonstrate that there was a prior relationship between the two and how the victim was able to identify Garrow. It specifically

prohibited the State from introducing the details of the dispute and appears to have concluded that so limited, the probative value of the evidence was not substantially outweighed by its prejudice. And the district court expressly asked defense counsel if he had any objection to the State's characterization of the facts of the dispute; counsel stated he only objected to describing the transaction as fraud. Under these circumstances, we conclude that the district court did not abuse its discretion or manifestly err by admitting evidence of the prior dispute.

To the extent Garrow challenges the fact that the details of the business dispute were elicited during trial despite the district court's ruling after the Petrocelli hearing, Garrow is estopped from asserting such a challenge because defense counsel invited any error by opening the door to this testimony during cross-examination. See Rhyne v. State, 118 Nev. 1, 9, 38 P.3d 163, 168 (2002).

Garrow also contends that the district court erred by allowing three witnesses to identify him in the security video depicting the robbery. Garrow did not object to any of the challenged identifications and we conclude he has failed to demonstrate plain error. See NRS 50.265; Valdez v. State, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008) (defining plain error); Rossana v. State, 113 Nev. 375, 380-81, 934 P.2d 1045, 1048-49 (1997). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. Douglas W. Herndon, District Judge
Robert L. Langford & Associates
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk