IN THE SUPREME COURT OF THE STATE OF NEVADA

DAMON THOR WOODALL, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 57685

FILED

JAN 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of burglary and attempted possession of a controlled substance by fraud. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge. Appellant Damon Thor Woodall raises six issues on appeal.

First, Woodall contends that the district court improperly restricted his ability to conduct voir dire. We conclude that the district court did not unreasonably restrict Woodall's examination of prospective jurors. See NRS 175.031. The district court did not abuse its discretion when it prohibited counsel from continuing with a confusing metaphor nor did it err when it prohibited counsel from asking prospective jurors to answer hypothetical questions about how they would decide a case. See Cunningham v. State, 94 Nev. 128, 130, 575 P.2d 936, 937-38 (1978) (explaining that scope and manner of voir dire is within the sound discretion of the district court and is accorded considerable latitude on review).

Second, Woodall contends that the district court improperly removed a potential juror for cause. We disagree. The prospective juror

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stated, "I think I could possibly not be fair and impartial." Accordingly, the district court did not abuse its discretion by removing the prospective juror for cause. See Weber v. State, 121 Nev. 554, 580, 119 P.3d 107, 125 (2005).

Third, Woodall contends that insufficient evidence supports his convictions because the State failed to prove that he entered the pharmacy with the intent to commit a felony and that the doctor did not write the prescription. 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). Here, the doctor's practice manager testified that she was familiar with the doctor's signature and the signature on the prescription was not the doctor's. Furthermore, the prescription did not have the doctor's correct DEA number, was written on a prescription pad that was no longer used by the doctor, and was in the wrong color ink. Video surveillance from the pharmacy showed Woodall enter the pharmacy, walk directly to the counter, and hand the prescription to the clerk before sitting down to wait for the prescription to be filled. We conclude that a rational juror could infer from these circumstances that the prescription was forged and Woodall entered the pharmacy with the intent to obtain a controlled substance by fraud. The jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports a conviction. NRS 205.060(1); NRS 453.331(d); NRS 193.330(1); Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); see also Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003) (circumstantial evidence alone may sustain a conviction).

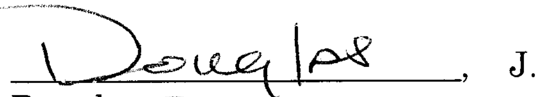
Fourth, Woodall contends that the State improperly referenced his prior bad acts during trial. Woodall failed to object below and we review for plain error. See Mclellan v. State, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). We conclude that the district court did not commit plain error by admitting testimony indicating that the doctor's prescription pad had been changed after he experienced past problems with forgery. At no time did the witnesses or the State attribute the previous forgeries to Woodall. Accordingly, this evidence was not admitted to prove Woodall's character as prohibited by NRS 48.045(2).

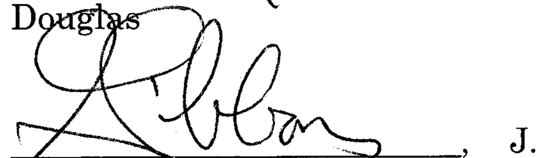
Fifth, Woodall contends that the district court improperly admitted the forged prescription through the testimony of the doctor's practice manager because it was unauthenticated inadmissible hearsay. We disagree. The prescription is not hearsay because it was not admitted to prove the truth of the matter asserted. See NRS 51.035. The whole premise of the State's case was that the doctor did not write the prescription. The pharmacy technician's prior testimony indicating that Woodall presented the prescription as genuine was alone sufficient to admit the prescription. See NRS 52.025. Therefore, the district court did not abuse its discretion by admitting the prescription. See Mclellan, 124 Nev. at 267, 182 P.3d at 109.

Sixth, Woodall contends that the district court should have suppressed his confession because the waiver of his Fifth Amendment rights was involuntary and his confession made under duress. In support of his contention, Woodall claims that his youth and lack of experience in the criminal justice system combined with his intoxicated state warrants reversal of the district court's decision to admit his confession as a voluntary statement. We disagree. Woodall was twenty-six at the time of

his confession and had three prior convictions. "[I]ntoxication alone does not automatically make a confession inadmissible." Kirksey v. State, 112 Nev. 980, 992, 923 P.2d 1102, 1110 (1996). Woodall has failed to demonstrate that he was intoxicated to such an extent that he was unable to understand the meaning of his comments. See id. Therefore, after considering the totality of the circumstances, we conclude that the district court did not err by determining that Woodall's waiver and confession were voluntary. See Mendoza v. State, 122 Nev. 267, 276-77, 130 P.3d 176, 181-82 (2006); Rosky v. State, 121 Nev. 184, 193-94, 111 P.3d 690, 696 (2005). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_______________, J.
Douglas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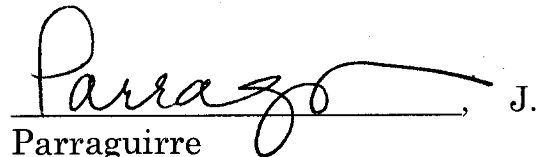
_______________, J.
Parraguirre

cc: Hon. Douglas W. Herndon, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk