

IN THE SUPREME COURT OF THE STATE OF NEVADA

COLLEEN RIMER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58896

FILED

SEP 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

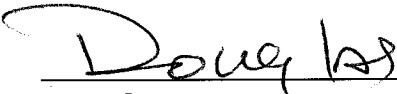
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of involuntary manslaughter, child neglect or endangerment resulting in substantial bodily harm, and two counts of child abuse or neglect. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

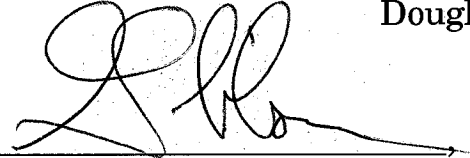
Appellant's sole claim on appeal is that the district court abused its discretion by denying her motion to strike language in the amended indictment, which was read to the jury (instruction 3), referring to the deceased victim as "baby Jason" in the child abuse and neglect charge (count 3). She argues that the word "baby" was prejudicial surplusage considering "certain common associations with the word 'baby,' including the inability to care for oneself and helplessness." See NRS 173.085 (providing that district court may strike surplusage from indictment or information upon defendant's motion); Hulett v. Sheriff, 91 Nev. 139, 141, 532 P.2d 607, 608 (1975) (concluding that defendant may seek to strike surplusage from indictment or information where surplusage results in prejudice). Even assuming the challenged language was surplusage, no prejudice resulted on the ground appellant asserts

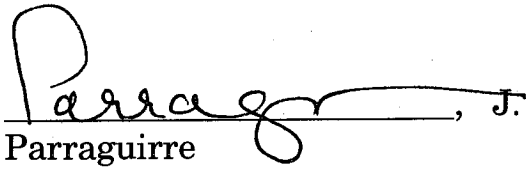
considering that the victim was an infant during part of the charged period and he suffered from a debilitating medical condition.

Having considered appellant's argument and concluded that no relief is warranted, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Douglas W. Herndon, District Judge
Sanft Law, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk