

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE CALIX LEDET, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 59427

**FILED**

MAR 07 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *A. Ingerson*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of unlawful sale and/or supply of a controlled substance. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Appellant's conviction stems from his sale of methamphetamine to a confidential informant working with the police. He raises two issues on appeal.

First, appellant argues that the district court erred by refusing to instruct the jury that trafficking in a controlled substance, for which the confidential informant suffered a conviction, required mandatory imprisonment unless she or someone on her behalf provided substantial assistance. In essence, appellant's theory of defense was that the confidential informant's testimony was incredible and therefore the prosecution failed to prove appellant's guilt beyond a reasonable doubt. Because the jury was properly and thoroughly instructed on credibility matters, including guidance on determining the credibility of confidential informants and witnesses who have felony convictions, we conclude that the district court did not abuse its discretion by denying the requested instruction. See Vallery v. State, 118 Nev. 357, 372, 46 P.3d 66, 77 (2002) (stating that "[t]he district court may . . . refuse a jury instruction on the

defendant's theory of the case that is substantially covered by other instructions" or misstates applicable law); Jackson v. State, 117 Nev. 116, 120, 17 P.2d 998, 1000 (2001) (stating that district courts are afforded broad discretion in settling instructions).

Second, appellant argues that the district court violated double jeopardy by sentencing him for his prior drug-related convictions. See Desimone v. State, 111 Nev. 1221, 1224, 904 P.2d 1, 3 (1995) (noting that Double Jeopardy Clause protects against multiple punishments for same offense), vacated on other grounds, 518 U.S. 1030 (1996). During sentencing, the prosecutor commented that appellant's multiple prior convictions were all drug related and requested the district court to "punish him for his prior three convictions for other drug-related convictions and not to show any leniency . . . ." The district court stated that it agreed with the prosecution as to the number of convictions and that leniency was not appropriate. Because appellant did not object, we review this matter for plain error affecting his substantial rights. Davidson v. State, 124 Nev. 892, 899-900, 192 P.3d 1185, 1190-91 (2008). Considering the district court's comments as a whole, we conclude that they reflect the district court's view that appellant was not deserving of a light sentence given his significant history of drug-related offenses rather than an indication that the district court punished appellant for his prior convictions. Consequently, appellant failed to demonstrate plain error affecting his substantial rights in this regard.

Because appellant failed to demonstrate error warranting relief, we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.  
Douglas

Gibbons, J.  
Gibbons

Parraguirre, J.  
Parraguirre

cc: Hon. Steven P. Elliott, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk