IN THE SUPREME COURT OF THE STATE OF NEVADA

LLOYD STEVEN BEVERLY A/K/A LLOYD
STEVEN BEVERLY, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35526

FILED

SEP 21 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY _____
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction pursuant to a jury verdict of one count of conspiracy to commit burglary, two counts of burglary, one count of attempted burglary, and one count of possession of burglary tools. The district court sentenced appellant to three consecutive terms of 60-190 months each in prison and two concurrent terms of one year each in jail.

Appellant contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. Specifically, appellant argues that, as to one of the counts of burglary, there was insufficient evidence that appellant acted as a lookout while his co-conspirator committed burglary. Appellant claims that he was merely using a port-a-potty on the premises while his co-conspirator entered a residence looking for a stove to steal.
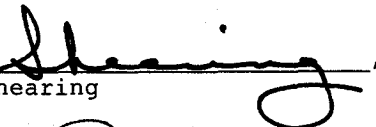
However, the theory of the case propounded by the State was that appellant entered into a conspiracy to go to houses that were in various stages of construction and steal a stove. Appellant does not challenge his conviction for conspiracy. The fact that one of the conspirators entered the house is sufficient to hold appellant liable for the conduct.
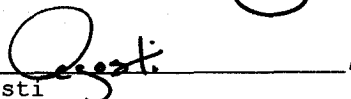
00-167-24

See Pinkerton v. United States, 328 U.S. 640, 647 (1946) ("the overt act of one partner in crime is attributable to all"); State v. Wilcox, 105 Nev. 434, 776 P.2d 549 (1989) (even though defendant may not have committed any acts in Nevada in furtherance of the conspiracy, he is subject to prosecution for the acts carried out as part of the conspiracy by his co-conspirators).

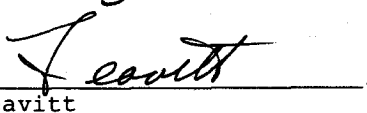Having concluded that appellant's contention lacks merit, we

ORDER this appeal dismissed.

_____, J.
Shearing

_____, J.
Agosti

_____, J.
Leavitt

cc: Hon. Jack Lehman, District Judge
     Attorney General
     Clark County District Attorney
     Clark County Public Defender
     Clark County Clerk