IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS ALBERT CERVANTES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60267

FILED

DEC 13 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 sale of a controlled substance. First Judicial District Court, Carson City; James E. Wilson, Judge. Appellant Luis Cervantes raises multiple arguments on appeal.

First, Cervantes argues that there was insufficient evidence to support his conviction because neither the actual bills used in the transaction nor copies of the bills were introduced at trial. NRS 453.321(1)(a). A police officer testified at trial that he provided a confidential informant with $450 to purchase a controlled substance from the occupants of Cervantes' vehicle. After receiving word that the transaction was complete, the police officer pulled Cervantes over and located $450 in the vehicle that matched the bills given to the informant. It is for the jury to determine the weight and credibility to give testimony. See Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). Accordingly, we conclude that, after viewing the evidence in the light most favorable to the prosecution, a 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); see also Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

Second, Cervantes argues that the district court erred by allowing the State to introduce evidence of prior uncharged misconduct. We disagree. The district court held a hearing and determined that the evidence was relevant to establish that Cervantes had knowledge of the nature of the transaction and that the evidence was more probative than prejudicial. Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064-65 (1997). Because Cervantes claimed that he was unaware of the purpose for the trip, evidence that he participated as a driver in a drug transaction under notably similar circumstances was relevant to prove knowledge. Furthermore, we agree with the district court that the probative value of the evidence is not outweighed by the danger of undue prejudice. Accordingly, we conclude that Cervantes fails to demonstrate that the district court committed manifest error. Ledbetter v. State, 122 Nev. 252, 259, 129 P.3d 671, 676 (2006).

Third, Cervantes argues that the district court was mandated to give a lesser-included instruction for possession of a controlled substance without a request. The instruction is mandatory, without a request from the defense, only if "there is evidence which would absolve the defendant from guilt of the greater offense but would support a finding of guilt of the lesser offense." Rosas v. State, 122 Nev. 1258, 1265, 147 P.3d 1101, 1106 n.9 (2006) (internal quotation marks and ellipsis omitted). Because there was no evidence that would absolve the defendant of sale of a controlled substance but would support a finding of guilt for possession of a controlled substance, a lesser-included instruction was not mandatory

and therefore the district court did not err. Id. at 1267, 147 P.3d at 1107-08.

Cervantes also argues: (1) that the presentence investigation report of a codefendant was discoverable because it contained his codefendant's statements regarding the offense, (2) that a police officer gave inadmissible testimony regarding common practices of drug dealers, and (3) that the State should have disclosed to the defense information in its possession regarding prior juror contact with law enforcement. In support of these claims, Cervantes makes only general assertions of error and fails to provide this court with sufficient relevant authority, argument, or citation to the record. Accordingly, we conclude that Cervantes has failed to demonstrate error on those grounds.

Having considered Cervantes' contentions and concluded that relief is not warranted, we

ORDER the judgment of conviction AFFIRMED.

Saitta, J.

Pickering, J.

Hardesty, J.

cc: Hon. James E. Wilson, District Judge
Kay Ellen Armstrong
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk