

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICARDO RICKY PINA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60463

FILED

DEC 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Angela
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of possession of a stolen vehicle, possession of burglary tools, and two counts of misdemeanor assault. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.


Appellant Ricardo Ricky Pina contends that the district court erred by denying his pretrial motion to sever his possession of a stolen vehicle and possession of burglary tools counts from the assault counts. Pina claims that the counts should have been tried separately because the two groups of charges do not indicate a common plan or scheme and he was prejudiced by the joinder of the offenses. We disagree.


The State may charge two or more offenses in the same information, with a separate count for each offense, if the offenses are “[b]ased on the same act or transaction.” NRS 173.115(1). This court reviews a district court’s decision to join or sever charges for an abuse of discretion. Weber v. State, 121 Nev. 554, 570, 119 P.3d 107, 119 (2005); Tabish v. State, 119 Nev. 293, 302, 72 P.3d 584, 589-90 (2003). In reviewing the issue of joinder on appeal, this court will consider the quantity and quality of the evidence supporting the individual convictions. See, e.g., Brown v. State, 114 Nev. 1118, 1124-25, 967 P.2d 1126, 1130-31

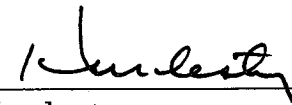
(1998) (overwhelming evidence of guilt, along with other factors, supported joinder). “The test is whether joinder is so manifestly prejudicial that it outweighs the dominant concern with judicial economy and compels the exercise of the court's discretion to sever.” Honeycutt v. State, 118 Nev. 660, 667, 56 P.3d 362, 367 (2002) (quoting United States v. Brashier, 548 F.2d 1315, 1323 (9th Cir. 1976)), overruled on other grounds by Carter v. State, 121 Nev. 759, 121 P.3d 592 (2005).

The district court conducted a hearing and denied the motion finding that “all of the charged crimes were based on the same act.” The district court’s findings are supported by the record. Additionally, in light of the overwhelming evidence of guilt presented by the State at trial, Pina has failed to demonstrate that joinder of the charges substantially influenced the jury's verdict, rendered his trial fundamentally unfair, or was manifestly prejudicial. Therefore, we conclude that the district court did not abuse its discretion by denying Pina’s motion to sever, and we

ORDER the judgment of conviction AFFIRMED.

 _____, J.
Saitta

 _____, J.
Pickering

 _____, J.
Hardesty

cc: Hon. Carolyn Ellsworth, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk