

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM UTRIA MACHADO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 62002

**FILED**

APR 09 2013

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

ORDER OF AFFIRMANCE

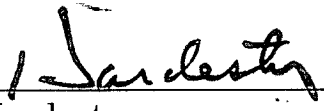
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of indecent exposure and open or gross lewdness. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

Appellant contends that his indecent exposure conviction should be reversed because the resulting convictions are redundant, arguing that both convictions stem from the same conduct. This court recently rejected the redundancy line of cases to the extent that they use a fact-based, "same conduct" test in determining whether cumulative punishment is permissible. Jackson v. State, 128 Nev. \_\_\_, \_\_\_, 291 P.3d 1274, 1282 (2012), petition for cert. filed, 81 U.S.L.W. \_\_\_ (U.S. Mar. 5, 2013) (No.12-9118). The analysis begins with the text of the relevant statutes to determine if the Legislature has authorized or prohibited multiple punishments. Id. If the legislative intent is unclear, the analysis becomes that of Blockburger v. United States, 284 U.S. 299 (1932), which considers whether one charged offense is the same or a lesser-included offense of the other. Jackson, 128 Nev. at \_\_\_, 291 P.3d at 1282.

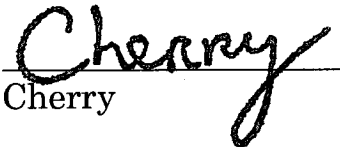
It is unclear from the plain language of the statutes whether multiple punishments for indecent exposure and open or gross lewdness are authorized or prohibited. See NRS 201.210; NRS 201.220. Applying

the Blockburger test, appellant's convictions each require proof of an element the other does not. NRS 201.210(1) (requiring an act of lewdness); NRS 201.220(1) (requiring an indecent or obscene exposure). Accordingly, appellant's convictions are not redundant, and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Scott N. Freeman, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk