

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID ROBERT THOMSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62246

FILED

NOV 14 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Tracie K. Lindeman
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant David Robert Thomson's motion for a new trial. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.


Thomson contends that the district court erred by denying his motion for a new trial or, alternatively, request for an evidentiary hearing. We review district court rulings on motions for a new trial and requests for an evidentiary hearing for abuse of discretion. *Stanley v. Schriro*, 598 F.3d 612, 617 (9th Cir. 2010); *Servin v. State*, 117 Nev. 775, 792, 32 P.3d 1277, 1289 (2001). "An abuse of discretion occurs if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason." *Jackson v. State*, 117 Nev. 116, 120, 17 P.3d 998, 1000 (2001).

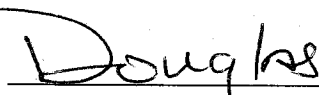
Thomson sought a new trial or, alternatively, an evidentiary hearing after learning that the police investigated Lisa Heining for theft seven months before she testified at his trial and filed charges against her two months after he was convicted. Thomson claimed that Heining was such an important witness that her impeachment would result in a different verdict. *See King v. State*, 95 Nev. 497, 500, 596 P.2d 501, 503 (1979) (newly discovered impeachment evidence may be sufficient to grant

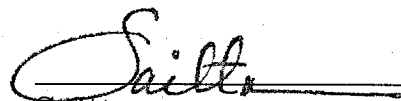
a new trial if the witness to be impeached is so important that a different trial result must follow).

The district court heard argument on Thomson's motion, reviewed the trial transcript, and made factual findings. The district court found that Heining was not a key witness, Heining's testimony merely corroborated evidence of Thomson's motive to commit murder, the State presented overwhelming evidence of Thomson's guilt, and there was no probability that the trial outcome would have been different without Heining's testimony. We conclude that the district court's findings are supported by substantial evidence and that the district court did not abuse its discretion by denying the motion for a new trial or request for an evidentiary hearing. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Valerie Adair, District Judge
Daniel J. Albregts, Ltd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk