

IN THE SUPREME COURT OF THE STATE OF NEVADA

NICO ZAUALETA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63476

FILED

MAR 12 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit robbery, battery with intent to commit a crime, and attempted robbery. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Appellant Nico Zaualeta contends that the district court erred by not allowing “relevant evidence to be admitted regarding alternate explanations for” his fleeing from the police. Zaualeta claims that the evidence would have provided a rebuttal to the State’s consciousness-of-guilt and flight argument. During the trial, outside the presence of the jury, the district court expressed concern that defense counsel was seeking to admit evidence that Zaualeta might have been involved in additional crimes along with those charged in the instant case. The district court asked counsel, “So, you want me to allow evidence in that could relate to your client having methamphetamine?” After much discussion, counsel stated that she needed time “to think about it,” and the trial recessed for lunch break. When the parties went back on the record more than an hour later, defense counsel informed the court, “As to the issue we were discussing prior to the lunch break, Your Honor, I think I’m going to leave it at the record that I’ve made regarding that issue. And well, I’m going to

leave it at that. . . . I'm not going to go into anything further with that." Therefore, we conclude that Zaualeta abandoned this issue in the proceedings below. Accordingly, we decline to address the issue on appeal, and we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Michael Villani, District Judge
Kocka & Bolton
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk