


IN THE SUPREME COURT OF THE STATE OF NEVADA

YOLANDA TODD A/K/A YOLANDA
FIELDS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63505

FILED

FEB 13 2014

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 battery with the use of a deadly weapon resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

First, appellant Yolanda Todd contends that the district court violated her right to due process and a fair trial by sustaining the State's objection and striking her testimony concerning the reason she often carried a knife in her purse. As a result, Todd claims she was prevented from presenting her defense to the charge of burglary while in the possession of a deadly weapon.

"We review a district court's decision to admit or exclude evidence for an abuse of discretion." *McLellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). Here, the district court explained, "I did not sustain the relevance objection as to the possession of the knife. But the answer that [she] has it because she has been raped . . . is clearly more prejudicial than it is probative to actions here." During closing

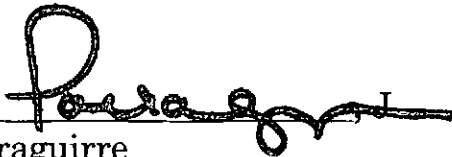
arguments, defense counsel did in fact imply, without objection from the State, that Todd carried a knife for protection purposes. We agree that Todd's explanation for the knife in her possession was relevant in part to her defense to the burglary charge. Regardless, the jury found Todd *not guilty* of burglary. Therefore, we conclude that any error was harmless beyond a reasonable doubt and Todd is not entitled to the reversal of her conviction. See NRS 178.598; see also *Chapman v. California*, 386 U.S. 18, 24 (1967); *Tavares v. State*, 117 Nev. 725, 732 n.14, 30 P.3d 1128, 1132 n.14 (2001), modified in part by *McLellan*, 124 Nev. 263, 182 P.3d 106.

Second, Todd contends that the district court violated her right to due process and a fair trial by denying her motion for a mistrial after a witness for the State testified that when he saw her several days after the incident, sitting at a bus stop, he called 9-1-1 "because I thought she was in jail." See generally *Haywood v. State*, 107 Nev. 285, 288, 809 P.2d 1272, 1273 (1991) (references to a defendant's in-custody status are improper). We disagree. The witness' statement was unsolicited by the State and an incorrect assumption about Todd's custody status prior to her arrest for the instant offense, which the subsequent line of questioning clarified for the jury. Further, Todd declined the district court's offer to provide the jury with a cautionary instruction. We conclude that the testimony did not unfairly prejudice Todd or infer guilt, and the district court did not abuse its discretion by denying her motion for a mistrial. See *Rose v. State*, 123 Nev. 194, 206-07, 163 P.3d 408, 417 (2007) (we review a

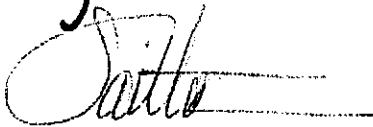
district court's decision to deny a motion for a mistrial for an abuse of discretion). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Pickering



Parraguirre


_____, J.
Saitta

cc: Hon. David B. Barker, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk