

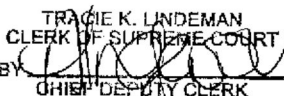
IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY SCOTT SQUIRES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63920

FILED

MAR 11 2015

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of three counts of lewdness with a child under the age of 14 years, open or gross lewdness, and child abuse and neglect. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

First, appellant argues that the district court improperly admitted evidence of a prior bad act. We disagree. The district court held a hearing and determined that the evidence was relevant to establish motive, intent, and absence of mistake or accident.¹ *Tinch v. State*, 113

¹On appeal, the State argues that the evidence was also admissible to show a common plan. We reject this argument. The evidence was admitted to prove motive, intent, or absence of mistake or accident and not as evidence establishing a common plan. Even assuming that this issue had been properly raised below, the prior bad act and the offenses in the instant case were not part of a preconceived, overarching plan. See *Richmond v. State*, 118 Nev. 924, 933-34, 59 P.3d 1249, 1255 (2002) (holding that the common plan exception requires that each crime be part of a preconceived, overarching plan and not merely the opportunistic taking advantage of victims that cross the defendant's path).

Nev. 1170, 1176, 946 P.2d 1061, 1064-65 (1997); NRS 48.045(2). On appeal, appellant challenges whether the prior-bad-act evidence was improper evidence of motive to show propensity and whether the district court failed to consider the prejudicial impact. This court has recognized that whatever may motivate a defendant to commit a crime is admissible to show motive under NRS 48.045(2). *See Ledbetter v. State*, 122 Nev. 252, 262, 129 P.3d 671, 678 (2006). In the instant case, the evidence of the prior bad act was admissible to show motive—appellant’s attraction to his victims, who were of a similar age. More importantly, appellant did not argue that the evidence was improperly admitted for the other reasons for which it was admitted—intent and absence of mistake or accident. Thus, appellant fails to demonstrate error in admitting this evidence under NRS 48.045(2). Furthermore, the district court determined that the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice, and we conclude that the record supports the district court’s determination given the points of similarity between the prior bad act and the instant crimes as well as the testimony at trial from the victim and family members describing appellant’s statements before and after he was confronted about the incidents. Accordingly, we conclude that appellant fails to demonstrate that the district court committed manifest error.² *Id.* at 259, 129 P.3d at 676.

²In the statement of issues on appeal, appellant argues that the State was allowed to improperly refresh the witness’ recollection. However, we decline to consider this argument as appellant provides no cogent argument in his brief beyond setting forth the issue in the statement of issues. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6
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Next, appellant argues that the district court abused its discretion in granting the State's motions to continue because the reasons provided were not truthful and allowed the State to notice more witnesses and locate the prior-bad-act witness. The district court did not abuse its discretion in granting the State's motions because they were necessary to procure the testimony of important witnesses and appellant has not demonstrated that the delay was the particular fault of the State or for an improper purpose. *See Lord v. State*, 107 Nev. 28, 42, 806 P.2d 548, 557 (1991). While it appears that some miscommunication occurred regarding the victim's aunt's pregnancy, and how advanced it was, the district court granted a prior motion filed by the State in June 2012 to continue due not only to the unavailability of the victim's aunt but also due to the unavailability of a number of other witnesses, including the detective, a doctor, and the victim's uncle.³ Although not artfully pleaded, it appears that the State's motion filed in September 2012 was based on the unavailability of the victim's aunt as well as the unavailability of the victim's uncle. In granting this motion, the district court indicated that it was granting the motion due to the unavailability of the victim's uncle. Appellant has not demonstrated that the State fabricated the reasons for

...continued

(1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").

³The district court also indicated that it was granting a continuance because it was not inclined to send the case into overflow as a number of cases had already been sent due to an upcoming capital murder trial.

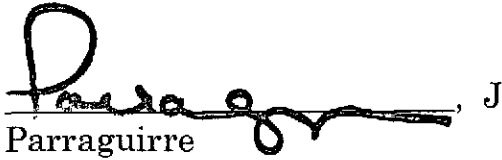
the continuances or that the continuances were for an improper purpose. Under these circumstances, appellant fails to demonstrate that he was prejudiced by the granting of the continuances in 2012.

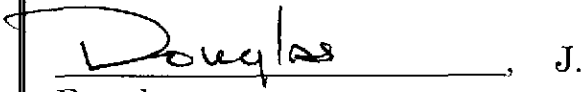
Next, appellant argues that the district court abused its discretion in denying his motion for an independent psychological examination of the victim. Appellant argues that the motion should have been granted as the detective did not follow proper protocol in interviewing the victim, the lack of corroboration of the victim's claims, appellant's reasonable belief that the victim's claims may have been elicited at the direction of her aunt or mother, and the changing nature of the victim's statements suggested coaching. Appellant further argues that the district court relied on the wrong standard when it determined that there was not a showing of mental or emotional deficiency because the test is whether the victim's mental or emotional state may have affected her veracity. The district court did not abuse its discretion in denying the motion because the State did not use an expert in psychology or psychiatry, there was some corroboration given appellant's statements before and after being confronted with the allegations, and appellant failed to demonstrate a reasonable basis for believing that the victim's mental or emotional state affected her veracity.⁴ See *Abbott v. State*, 122 Nev. 715, 723, 727, 138 P.3d 462, 467, 470 (2006); *Koerschner v. State*, 116 Nev. 1111, 1115-17, 13 P.3d 451, 454-55 (2000), *holding modified by State*

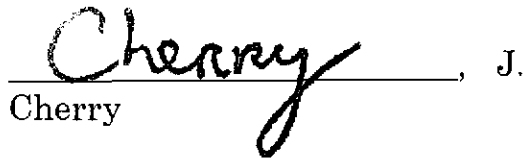
⁴The fact that the district court made a single comment using imprecise language does not establish that the district court applied the wrong standard.

v. Eighth Judicial Dist. Court (Romano), 120 Nev. 613, 97 P.3d 594 (2004),
overruled by Abbott, 122 Nev. at 727, 138 P.3d at 470. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


Parraguirre, J.


Douglas, J.


Cherry, J.

cc: Hon. Douglas W. Herndon, District Judge
Sandra L. Stewart
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk