IN THE SUPREME COURT OF THE STATE OF NEVADA

JIMMY HALL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36074

FILED

SEP 13 2000

JANETTE M. BLOOM
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 robbery. The district court sentenced appellant to serve 36 to 90 months in the Nevada State Prison.

Appellant contends that the district court erred in refusing to give appellant's proffered instruction on petit larceny as a lesser-related offense of robbery. Appellant relies on this court's decision in Moore v. State, 105 Nev. 378, 383, 776 P.2d 1235, 1238 (1989), where we held that a "jury should receive instruction on a lesser-related offense when three conditions are satisfied: (1) the lesser offense is closely related to the offense charged; (2) defendant's theory of defense is consistent with a conviction for the related offense; and (3) evidence of the lesser offense exists." However, we recently overruled Moore and held that a trial court is not required to instruct the jury on lesser-related offenses. Peck v. State, 116 Nev. ___, ___ P.3d ___, ___ (Adv. Op. No. 90, August 24, 2000). Accordingly, we conclude that the district court did not err in refusing to

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give a jury instruction on petit larceny as a lesser-related offense of robbery.[1]

Having considered appellant's contention and concluded that it lacks merit, we affirm the judgment of conviction.

It is so ORDERED.

_____, J.
Shearing

_____, J.
Agosti

_____, J.
Leavitt

cc: Hon. Connie J. Steinheimer, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk

[1]To the extent that appellant contends that the district court should have instructed the jury on petit larceny as a lesser-included offense of robbery, we conclude that, assuming petit larceny is a lesser-included offense of robbery, this contention lacks merit. See Lisby v. State, 82 Nev. 183, 188, 414 P.2d 592, 595 (1966) (stating that instruction on lesser-included offense may properly be refused where "the prosecution has met its burden of proof on the greater offense and there is no evidence at the trial tending to reduce the greater offense"); see also Davis v. State, 110 Nev. 1107, 881 P.2d 657 (1994); Holland v. State, 82 Nev. 191, 414 P.2d 590 (1966).