

IN THE SUPREME COURT OF THE STATE OF NEVADA

RUSSELL L. JOHNSON, JR.,

No. 36124

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

OCT 25 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT

BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of burglary while in possession of a firearm (Count I), two counts of battery with the use of a deadly weapon (Counts II and III), and one count of child endangerment (Count IV). The district court sentenced appellant: for Count I, to a prison term of 26 to 120 months; for Counts II and III, to prison terms of 36 to 120 months; and for Count IV to one year in the Clark County Detention Center. The district court ordered that the sentences for all counts were to run concurrently, and further ordered appellant to pay restitution in the amount of \$10,406.15.

Appellant contends that the district court erred by limiting appellant's ability to cross-examine the victim. Specifically, appellant argues that he should have been allowed to ask the victim if she had had an abortion approximately six months after the incident for which appellant was convicted.

Appellant argues that he should have been allowed to make the inquiry pursuant to NRS 50.085(3), which provides, in part:

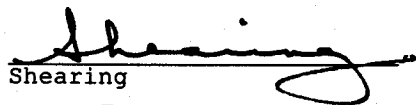
Specific instances of the conduct of a witness, for the purpose of attacking or supporting his credibility, other than conviction of crime, may not be proved by extrinsic evidence. They may, however, if relevant to truthfulness, be inquired into on cross-examination of the witness himself . . . subject to the general limitations upon relevant evidence

The district court found that whether the victim had undergone an abortion was not relevant to whether appellant had committed the crimes charged. Moreover, we note that the issue

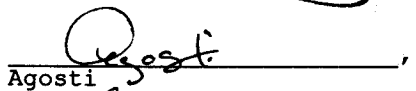
was not relevant to the truthfulness of the victim. The decision to admit or exclude evidence lies within the broad discretion of the district court, and its decision will not be reversed absent manifest error. *Kazalyn v. State*, 108 Nev. 67, 71-72, 825 P.2d 578, 581 (1992). We conclude that the district court did not err by disallowing the question of whether the victim had had an abortion.

Having considered appellant's contention and concluded it is without merit, the judgment of conviction is affirmed.

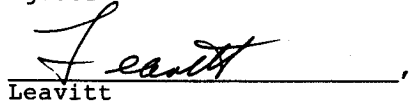
It is so ORDERED.



Shearing J.



Agosti J.



Leavitt J.

cc: Hon. Sally L. Loehrer, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk