

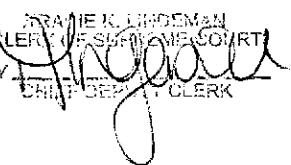
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DENNIS E. BYRD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67260

FILED

DEC 18 2015

FRANIE K. LINDSEMAN  
CLERK OF THE STATE COURT  
BY   
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of conspiracy to commit a crime, grand larceny, and burglary, filed pursuant to NRAP 4(c). Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Appellant Dennis Byrd argues because he was not charged with the predicate felony, obtaining money under false pretenses, the amended information provided inadequate notice of the State's theory of prosecution.<sup>1</sup>

Byrd failed to challenge the sufficiency of the amended information below; therefore, this court applies a reduced standard to test the sufficiency of the information. *Laney v. State*, 86 Nev. 173, 178, 466 P.2d 666, 670 (1970). For the information to be insufficient it must be "so defective that by no construction, within the reasonable limits of the

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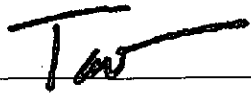
<sup>1</sup>Byrd makes the same argument as to the original information. Because the amended information effectively took the place of the original information and alleged the same burglary offense and theory, we refer only to the amended information in addressing this claim.

language used, can it be said to charge the offense for which the defendant was convicted." *Id.* (internal quotation marks omitted)

Here, the amended information informed Byrd of the State's theory Byrd committed the burglary by entering the pawn shop to obtain money by false pretenses. *See* NRS 205.060(1). We conclude the burglary charge in the amended information was sufficiently clear so as to apprise Byrd of the theory of prosecution and allow him to make a defense. Further, there is no requirement the State must charge a defendant with the predicate felony when charging him with burglary. Therefore, the amended information was adequate, and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Elissa F. Cadish, District Judge  
Nguyen & Lay  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk