

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PAUL HENRY CASTLES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68550

FILED

DEC 17 2015

TRACI K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of assault with a deadly weapon and home invasion with a deadly weapon. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellant Paul Castles claims the district court erred by rejecting his proposed jury instructions on malicious injury to property. He argues that malicious injury to property is a lesser-included offense of home invasion and he was entitled to instructions on this offense because it was consistent with his theory of the case.


“A defendant in a criminal case is entitled, upon request, to a jury instruction on his theory of the case so long as there is some evidence, no matter how weak or incredible, to support it.” *Harris v. State*, 106 Nev. 667, 670, 799 P.2d 1104, 1105-06 (1990) (internal quotation marks and brackets omitted). However, a defendant is not entitled to instructions that are “misleading, inaccurate or duplicitous.” *Carter v. State*, 121 Nev. 759, 765, 121 P.3d 592, 596 (2005).

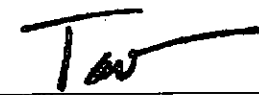
Jury instructions on the offense of malicious injury to property would have been misleading and inaccurate because malicious injury to

property is not a lesser-included offense of home invasion, Castles was not charged with malicious injury to property, and the instructions would have incorrectly suggested that the jury could find Castles guilty of malicious injury to property. See *Truesdell v. State*, 129 Nev. ___, ___, 304 P.3d 396, 402 (2013) (malicious injury to property is not a lesser-included offense of home invasion); *Peck v. State*, 116 Nev. 840, 845, 7 P.3d 470, 473 (2000) (a defendant is not entitled to an instruction on a lesser-related offense), *overruled on other grounds by Rosas v. State*, 122 Nev. 1258, 1269, 147 P.3d 1101, 1109 (2006).

Accordingly, we conclude the district court did not abuse its discretion by rejecting Castles' proposed jury instructions on malicious injury to property, see *Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005) ("The district court has broad discretion to settle jury instructions, and this court reviews the district court's decision for an abuse of that discretion or judicial error."), and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

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