

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY LEE HOBBS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69767

FILED

SEP 21 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of robbery. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

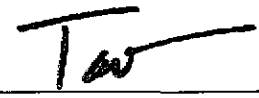
Appellant Timothy Hobbs claims the prosecutor's rebuttal argument improperly commented on his decision not to testify or, alternatively, the prosecutor's rebuttal argument improperly shifted the burden of proof to the defense. We have considered the challenged comments in context, *see Hernandez v. State*, 118 Nev. 513, 525, 50 P.3d 1100, 1108 (2002), and we conclude these comments did not directly or indirectly reference Hobbs' decision not to testify, *see Harkness v. State*, 107 Nev. 800, 803, 820 P.2d 759, 761 (1991), and they did not impermissibly shift the burden of proof because they were a reasonable response to Hobbs' closing argument, *see Evans v. State*, 117 Nev. 609, 630-31, 28 P.3d 498, 513 (2001). Accordingly, there was no error.


Hobbs also claims the cumulative effect of the prosecutor's comments on his decision not to testify and prejudicial drug references deprived him of a fair trial. As we have already determined the prosecutor did not comment on Hobbs' decision not to testify and Hobbs has not

demonstrated the prosecutor's drug reference constituted error, we conclude there is no error to cumulate.

Having concluded Hobbs is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Douglas W. Herndon, District Judge
Aisen Gill & Associates LLP
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk