

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICIAH AMYAS MARTIN,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36407

FILED

FEB 21 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of coercion and elder abuse. The district court sentenced appellant to serve concurrent terms of 12 to 36 months and 24 to 60 months in the Nevada State Prison. The district court suspended the sentences and placed appellant on probation for an indeterminate period not to exceed 5 years.

Appellant first contends that the district court abused its discretion by admitting evidence of appellant's conduct prior to the commission of the charged offenses. Appellant argues that the other act evidence was inadmissible pursuant to NRS 48.045. We conclude that appellant's contention lacks merit.

Trial courts have considerable discretion in determining relevance and admissibility of evidence.¹ Accordingly, we will not disturb the trial court's decision to admit or exclude evidence absent a clear abuse of discretion.²

The district court appears to have admitted the evidence under the res gestae doctrine—the complete story of the crime. The "complete story of the crime" doctrine is set forth in NRS 48.035(3).³ We have explained that the doctrine allows the State to present a complete picture of the facts surrounding the commission of a crime:

[T]he State is entitled to present a full and accurate account of the circumstances surrounding the commission of a crime, and such evidence is admissible even if it implicates the accused in the commission of other crimes for which he has not been charged.⁴

¹See *Sterling v. State*, 108 Nev. 391, 395, 834 P.2d 400, 403 (1992).

²See *Lucas v. State*, 96 Nev. 428, 431-32, 610 P.2d 727, 720 (1980).

³NRS 48.035(3) states:

Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be excluded, but at the request of an interested party, a cautionary instruction shall be given explaining the reason for its admission.

⁴*Brackeen v. State*, 104 Nev. 547, 553, 763 P.2d 59, 63 (1988).

But to use the doctrine, "the crime must be so interconnected to the act in question that a witness cannot describe the act in controversy without referring to the other crime."⁵

Based on our review of the record, we conclude that the district court did not abuse its discretion in admitting the other act evidence as part of the complete story of the crime. Although the witnesses could have described the incident leading up to the commission of the charged offenses without mentioning that appellant grabbed a knife to defend himself, such an omission would have been misleading and would not have provided a full and accurate account of the circumstances surrounding the commission of the charged offenses. We acknowledge that this evidence could have a prejudicial impact. But we agree with the district court's determination that the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice.⁶ Moreover, we note that the district court alleviated the potential for unfair prejudice by instructing the jury on the limited use of the evidence. Under the circumstances, we conclude that the district court did not abuse its discretion.

Additionally, even if the evidence was not admissible under NRS 48.035(3), we conclude that it could have been properly admitted pursuant to NRS 48.045(2) as evidence

⁵Bletcher v. State, 111 Nev. 1477, 1480, 907 P.2d 978, 980 (1995).

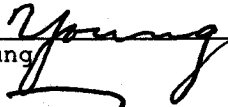
⁶See NRS 48.035(1).

of appellant's motive. Accordingly, any error in admitting it for another purpose was harmless.⁷

Appellant also contends that the district court abused its discretion by denying his motion for a mistrial after a witness testified regarding matters that the district court had excluded in a pretrial hearing. After a review of the record, we conclude that the district court did not abuse its discretion in denying the motion for a mistrial.⁸

Having considered appellant's contentions and concluded they are without merit, we affirm the judgment of conviction.


It is so ORDERED.



Young J.



Rose J.



Becker J.

cc: Hon. Jerome M. Polaha, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk

⁷See James v. State, 105 Nev. 873, 874-75, 784 P.2d 965, 967 (1989).

⁸See Mortensen v. State, 115 Nev. 273, 281, 986 P.2d 1105, 1111 (1999) ("Denial of a motion for mistrial can only be reversed where there is a clear showing of an abuse of discretion.").