

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARUCH ARMIEN WASHINGTON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36496

FILED

MAR 15 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER AFFIRMING AND REMANDING TO CORRECT

JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of burglary, one count of robbery with the use of a deadly weapon, one count of conspiracy to commit robbery, and one count of coercion. The district court sentenced appellant: for burglary, to a prison term of 22 to 92 months; for robbery, to a concurrent prison term of 35 to 156 months, with an equal and consecutive term for the deadly weapon enhancement; for conspiracy, to a concurrent prison term of 13 to 60 months; and for coercion, to a concurrent prison term of 13 to 60 months.

Appellant first contends that the district court erred by denying appellant's pre-trial motion to dismiss a charge of kidnapping. Appellant's argument is, in essence, that he should not have been bound over on the charge of kidnapping.

At the preliminary hearing, the victim and his wife testified that appellant and two other men broke into their home and that the burglars began beating the victim and demanding money and drugs. The burglars placed a towel or blanket over the victim, forcing him upstairs at gunpoint to the bedroom where the victim's wife and two children were located. At some point, the victim's hands and feet were

bound, and he was beaten again while the burglars demanded money and drugs.

"[P]robable cause to bind a defendant over for trial 'may be based on "slight," even "marginal," evidence because it does not involve a determination of guilt or innocence of an accused.'"¹ We conclude that there was probable cause to bind appellant over on the kidnapping charge, and that the district court did not err by denying the motion to dismiss.

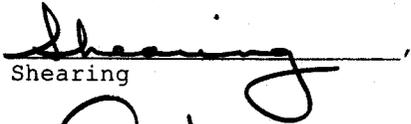
Appellant also contends that the district court erred by denying, in part, appellant's motion to suppress comments made by appellant to the detective who was transporting appellant to the Clark County Detention Center. Prior to making the comments, appellant had invoked his right to counsel. An accused is not subject to further interrogation when he invokes his right to counsel, but police are not prohibited from "merely listening to his voluntary, volunteered statements and using them against him at the trial."² We note that in the instant case, the district court suppressed those comments made by appellant in response to questioning by the detective, but refused to suppress the spontaneous comments made by appellant. We conclude that the district court did not err.

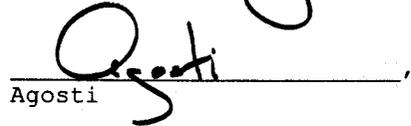
However, our review of the judgment of conviction revealed a clerical error. The judgment of conviction states that appellant was convicted pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. Accordingly, we

¹Sheriff v. Middleton v. State, 112 Nev. 956, 961, 921 P.2d 282, 286 (1996) (quoting Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980)).

²Edwards v. Arizona, 451 U.S. 477, 485 (1981).

ORDER the judgment of conviction AFFIRMED AND REMAND
this matter to the district court for the limited purpose of
entering a corrected judgment of conviction.³


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Rose

cc: Hon. Jeffrey D. Sobel, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Lybarger, Bunin & Bunin
Clark County Clerk

³We have considered all proper person documents filed or
received in this matter, and we conclude that the relief
requested is not warranted.