

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KELLY DENNIS JORY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74084

FILED

SEP 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Kelly Dennis Jory appeals from a judgment of conviction entered pursuant to a jury verdict of possession of a stolen vehicle. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Jory claims the district court erred by failing to suppress improper comments the prosecutor made during closing and rebuttal arguments and thereby deprived him of a fair trial. Jory specifically claims the prosecutor vouched for the credibility of her witnesses, offered personal opinions about the evidence, disparaged the defendant, and inflamed the jury. Jory did not object to any of the prosecutor's comments.


The district court has a duty to ensure that criminal defendants receive a fair trial. *Collier v. State*, 101 Nev. 473, 477, 705 P.2d 1126, 1128 (1985). In fulfilling this duty, the district court must "exercise [its] discretionary power to control obvious prosecutorial misconduct *sua sponte*." *Id.* "In determining whether prosecutorial misconduct has deprived a defendant of a fair trial, we inquire as to whether the prosecutor's statements so infected the proceedings with unfairness as to make the results a denial of due process." *Rudin v. State*, 120 Nev. 121, 136, 86 P.3d 572, 582 (2004) (internal footnotes and quotation marks

omitted). We have considered the prosecutor's comments in context and conclude they did not deprive Jory of a fair trial and the district court did not err in this regard.

Jory also claims cumulative error deprived him of a fair trial. However, Jory failed to demonstrate any error, so there is nothing to cumulate.

Having concluded Jory is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.¹


_____, C.J.
Silver


_____, J.
Gibbons

cc: Hon. Elissa F. Cadish, District Judge
Aisen Gill & Associates LLP
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The Honorable Jerome T. Tao did not participate in the decision in this matter.