

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD EDWARD SUFF,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78385

FILED

MAR 17 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of sexual assault of a minor under 14 years of age, 2 counts of lewdness with a child under 14 years of age, and 3 counts of open or gross lewdness in the presence of a child or vulnerable person. Eighth Judicial District Court, Clark County; David M. Jones, Judge. Appellant Donald Suff raises one issue on appeal.¹

Suff argues that the district court improperly allowed witnesses to testify that Suff sexually abused them when they were minors.² We review for an abuse of discretion, *McLellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008), and find none as NRS 48.045(3) expressly provides

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

²To the extent that Suff conceded below to the admissibility of one of the prior victim's testimony, he cannot complain on appeal. *See Pearson v. Pearson*, 110 Nev. 293, 297, 871 P.2d 343, 345 (1994) (referencing the general rule that invited error is not properly the subject of appellate review in both civil and criminal cases); *see also United States v. Olano*, 507 U.S. 725, 732-34 (1993) (distinguishing between forfeiture, which is the failure to timely assert a right and allows for plain-error review, and waiver, which involves an intentional relinquishment of a known right and does not allow for appellate review because there is no "error").

that in a criminal prosecution for a sexual offense, evidence that a person committed another separate sexual offense is admissible. Furthermore, Suff has not demonstrated that the evidence's probative value was substantially outweighed by the danger of unfair prejudice. NRS 48.035(1); *Franks v. State*, 135 Nev. 1, 3-7, 432 P.3d 752, 754-57 (2019). We therefore, ORDER the judgment of conviction AFFIRMED.

Pickering, C.J.
Pickering

Gibbons, J.
Gibbons

Silver, J.
Silver

cc: Hon. David M. Jones, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk