

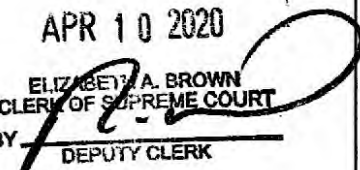
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AARON DELANO JIMENEZ, A/K/A  
AARON MANUS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77973-COA

**FILED**

APR 10 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Aaron Delano Jimenez appeals from a judgment of conviction entered pursuant to a jury verdict of two counts of assault with a deadly weapon. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

First, Jimenez argues there was insufficient evidence produced at trial to support the jury's finding of guilt. Jimenez contends the victims' testimony was not credible and the State failed to demonstrate he used a firearm. Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. *See Origel-Candido v. State*, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998); *see also Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

The record reveals the two victims testified their vehicle struck the back of Jimenez' vehicle. Both vehicles pulled over and Jimenez exited his vehicle. The parties exchanged curse words and Jimenez returned to his vehicle. Jimenez withdrew a pistol from his vehicle, pointed it at the

two victims, and uttered a threatening statement. Both victims testified Jimenez' actions caused them to fear for their safety. One victim recorded the incident with her phone and the recording, along with still photographs taken from the recording, were admitted at trial. Given the evidence and testimony, the jury could reasonably find Jimenez committed two counts of assault with a deadly weapon. *See* NRS 200.471(1), (2)(b). While Jimenez contends the victims were not credible, it is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. *See Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

Second, Jimenez argues the district court erred by declining to permit him to cross-examine a victim concerning a prior traffic offense that stemmed from following a vehicle too closely. "District courts are vested with considerable discretion in determining the relevance and admissibility of evidence." *Archanian v. State*, 122 Nev. 1019, 1029, 145 P.3d 1008, 1016 (2006). A decision "to admit or exclude evidence will not be reversed on appeal unless it is manifestly wrong." *Id.*

"Impeachment by use of extrinsic evidence is prohibited when collateral to the proceedings." *Lobato v. State*, 120 Nev. 512, 518, 96 P.3d 765, 770 (2004). "Unless in some way related to the case and admissible on other grounds, extrinsic prior bad act evidence is always collateral and therefore inadmissible to attack credibility." *Id.* at 519, 96 P.3d at 770. The district court precluded Jimenez from cross-examining the victim concerning the prior traffic offense because it found that offense was not relevant to whether Jimenez committed assault with a deadly weapon.

Jimenez does not demonstrate the district court abused its discretion by finding the prior traffic offense was not related to this case and was thus inadmissible to attack the victim's credibility. Therefore, we conclude Jimenez is not entitled to relief based on this claim.

Third, Jimenez argues the district court erred by instructing the jury on flight. Because flight instructions are potentially prejudicial, "this court carefully scrutinizes the record to determine if the evidence actually warranted the instruction." *Weber v. State*, 121 Nev. 554, 582, 119 P.3d 107, 126 (2005), *overruled on other grounds by Farmer v. State*, 133 Nev. 693, 405 P.3d 114 (2017). "Flight is more than merely leaving the scene of the crime. It embodies the idea of going away with a consciousness of guilt and for the purpose of avoiding arrest." *Potter v. State*, 96 Nev. 875, 876, 619 P.2d 1222, 1222 (1980).

Here, the victims testified that Jimenez left after threatening them with his pistol, but there was no evidence that he fled with consciousness of guilt or to avoid arrest. Therefore, the district court erred by instructing the jury on flight. However, the district court's error does not require reversal of Jimenez' judgment of conviction if it "is apparent that the same result would have been reached" if the district court had not issued a flight instruction. *See id.* at 876, 619 P.2d at 1223. The record demonstrates there was significant evidence of Jimenez' guilt produced at trial, in particular the recording and the still photographs depicting him committing the crimes. Accordingly, it is apparent Jimenez would have been convicted even if the district court had not issued the flight instruction. Therefore, Jimenez is not entitled to relief based on this claim.

Fourth, Jimenez argues he is entitled to relief due to cumulative error. However, one error cannot cumulate. *Carroll v. State*, 132 Nev. 269, 287, 371 P.3d 1023, 1035 (2016). Therefore, Jimenez is not entitled to relief based upon cumulative error. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Michelle Leavitt, District Judge  
Law Office of Lisa Rasmussen  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk