IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBY JEHU STROUP,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 37743

FILED

MAR 17 2003

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of two counts of murder in the first degree with the use of a deadly weapon. During the penalty hearing, jurors imposed four consecutive life sentences without the possibility of parole. Appellant raises numerous issues in this appeal.

FACTS

The State presented the following theories to connect appellant Bobby Stroup (Bobby) with the homicides of Jack Strawbridge and Dan Rasmussen: 1) Bobby directly participated in the murders; 2) Bobby aided and abetted his son, Roger Stroup (Roger), by providing guns used in the killings, driving Roger to the scene of the crime, or by other means; and 3) Bobby conspired with Roger to commit the murders.

The State argued the killings were motivated by unpaid debts. In 1991, Roger loaned Rasmussen $30,000 to conduct drug deals. A smaller amount was loaned to Strawbridge. Rasmussen was to purchase narcotics, sell the drugs for a profit, and reimburse Roger the principle and a portion of profits. Instead, Rasmussen spent the money buying drugs and other items for his own personal consumption. In early October 1991, Roger began demanding repayment, but was continually rebuffed. The State claimed Roger's anger rose to a "boiling point" immediately

prior to the murders. On the evening of October 11, 1991, Roger and Rasmussen engaged in a verbal confrontation which escalated into a physical altercation. Shortly thereafter, Roger drove to Rasmussen's residence where a second physical altercation ensued. After the fight broke up, Roger kept yelling, "You're dead. You're dead. You don't even know it." Following the incident, Roger made two phone calls. During the first call, he said, "I want daddy. They're pointing guns at me." He kept saying he wanted his guns and would get them if they could not be brought to him. Next, Roger called his mother. She relayed the information to Bobby the next day.

On October 12, 1991, at approximately 2:30 a.m., Bobby arrived at Roger's house and said, "Let's go." Although Roger appeared apprehensive and nervous, Bobby was calm and in control.

On October 13, 1991, Rasmussen drove to a 7-Eleven store on his motorcycle. After he parked, a car pulled up and blocked him from exiting. Roger got out of the vehicle, grabbed Rasmussen's arm, placed him inside the vehicle, and drove away at high speed. Five people were in the car, one of whom was Strawbridge. The State presented circumstantial evidence and eyewitness testimony that Bobby was one of the other two persons present. Late that evening, the bodies of Rasmussen and Strawbridge were found riddled with bullets in a turnout on Mt. Rose Highway. Motorcycles belonging to both victims were later recovered at the 7-Eleven store parking lot.

Darby Wheeler (Wheeler), a special agent with the Bureau of Alcohol, Tobacco and Firearms, traced two .380 firearms with the serial numbers 56885 and 56886. Firearm 56885 was found at the scene of the crime and firearm 56886 was located at the home of James Oxley (Oxley). Both firearms were purchased by Michael Kirby (Kirby) and resold to Oxley. Oxley testified he kept one and gave the other to Bobby.

Oxley testified that in October 1991, Bobby asked him to report the guns stolen so they could get rid of them. Shortly thereafter, Bobby had Oxley drive him to Mt. Rose Highway and said they needed to look for a gun on the roadside. When they approached the crime scene, Bobby became jumpy and told Oxley to go back.

Dave Sloan (Sloan) testified Roger arrived home the night of October 13, 1991, or the early morning of October 14, 1991. Roger took his sweats off and asked Sloan to burn them. Then Roger said, "Never mind. I don't want to involve you with it. I'm not supposed to be even talking to you. So if anybody asks, you haven't seen me. If anybody asks where I'm at, I'm away on business with my dad." Roger said Strawbridge, Rasmussen and Al Opra were all dead. Roger told Sloan that if he talked to anybody he would be killed also. Sloan received a phone call from Roger two days later. Roger asked Sloan whether he talked to the police. At the end of the call, Roger said, "See, Dad, I told you he wouldn't roll over on us." Roger told Sloan he did a good job, to stay quiet, and not do anything or he would be killed also.

On October 15, 1991, a burned vehicle was found in Toiyabe National Forest. The car was registered to Tina Andrews (Tina). Tina was married to Jerry Andrews, Bobby's long-time friend. A portion of the car's tire was consistent with tread impressions found at the crime scene. A knife found in the car fit into the knife sheath found on Strawbridge's belt. A metallurgist compared metal parts and a snap belonging to a helmet, also found in the car, with the helmet of Lori Rasmussen (Lori). They were fabricated using the same machine. Lori, Rasmussen's wife, purchased identical helmets for herself and Rasmussen prior to his demise.

Furthermore, blood stains matching Rasmussen's and Roger's blood type were found on a pair of jeans recovered from Roger's house. The jeans contained a greater amount of Rasmussen's blood.

In March 2000, Leland Nicholson (Nicholson) befriended Bobby while incarcerated at the Washoe County Jail. Nicholson testified that Bobby gave a graphic description of the murders and implicated himself. Nicholson's testimony included statements not known to the general public. However, Nicholson also made some statements contrary to the evidence. In exchange for Nicholson's testimony, the prosecutor agreed to send a letter to the parole board regarding Nicholson's cooperation. Bobby testified he did not tell Nicholson that he was involved with the murders, but merely told him about what was going on with the case.

Brent Muir (Muir) was also incarcerated with Bobby at Washoe County Jail. He testified to statements Bobby made regarding the murders. Muir was also aware of facts not available through the media and made some statements contrary to the evidence. Karla Butko, Muir's attorney, said she told Muir they would argue for a sentencing departure in his federal case, but there was not a lot of hope.

On August 17, 1998, a criminal complaint was filed against Bobby. At the time, he was in California facing homicide charges on an unrelated matter. In October 1999, Bobby was extradited to Nevada.

The jury found Bobby guilty of two counts of first degree murder with the use of a deadly weapon. During the penalty hearing, jurors imposed four consecutive life sentences without the possibility of parole.

DISCUSSION

First, Bobby claims the district court abused its discretion in giving a consciousness of guilt jury instruction because he did not take

affirmative steps to find his gun on Mt. Rose Highway. He also claims the district court erred because at least one possible explanation for his actions was consistent with innocent behavior. We disagree.

The trial court has broad discretion to decide evidentiary issues and settle jury instructions.[1] Therefore, we review a district court's decision to give a particular instruction for judicial error or an abuse of discretion.[2] An abuse of discretion occurs if the trial court's decision is arbitrary or capricious.[3]

Instruction No. 31 states:

> If you find that a defendant attempted to suppress evidence against himself in any manner, such as by attempting to conceal or destroy evidence, this attempt may be considered by you as a circumstance tending to show a consciousness of guilt. However, this conduct is not sufficient by itself to prove guilt, and its weight and significance, if any, are for you to decide.

"'It is universally conceded today that the fact of an accused's flight, escape from custody, resistance to arrest, concealment, assumption of a false name, and related conduct, are admissible as evidence of consciousness of guilt, and thus of guilt itself.'"[4]

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[1]See Greene v. State, 113 Nev. 157, 167-68, 931 P.2d 54, 60-61 (1997), receded from on other grounds by Byford v. State, 116 Nev. 215, 235, 994 P.2d 700, 713 (2000).

[2]See Howard v. State, 102 Nev. 572, 578, 729 P.2d 1341, 1345 (1986); see also Quillen v. State, 112 Nev. 1369, 1381, 929 P.2d 893, 901 (1996) (stating that decisions on whether to give or decline proposed jury instructions are reviewed for abuse of discretion).

[3]See State, Dep't Mtr. Veh. v. Root, 113 Nev. 942, 947, 944 P.2d 784, 787 (1997).

[4]U.S. v. Clark, 45 F.3d 1247, 1250 (8th Cir. 1995) (quoting 2 John H. Wigmore, Evidence § 276 (rev. 1979)).

Bobby's actions in this case were more than a mere mental desire to conceal evidence. He took steps to find the alleged murder weapon. The fact he ultimately aborted his plan is of no consequence. According to Oxley, Bobby asked him to report their guns as stolen in October 1991. Shortly thereafter, Bobby had Oxley drive him to Mt. Rose Highway and said they needed to look for a gun on the roadside. As they approached the crime scene, Bobby became jumpy and told Oxley to go back. Based on Bobby's actions, it could be inferred through reason and common sense that he was looking for a murder weapon. Further, Bobby did not have numerous and equally plausible reasons for attempting to search for a gun near the crime scene.[5] Thus, the district court did not abuse its discretion.

Second, although Bobby did not object at trial, he now argues the district court improperly instructed the jury that a deadly weapons enhancement could be applied to a conspiracy charge. We disagree.

Failure to object to a jury instruction at trial bars appellate review.[6] However, this court can address plain error sua sponte.[7]

Instruction No. 26A states:

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[5]See Tavares v. State, 117 Nev. __, __, 30 P.3d 1128, 1134 (2001); Hutchins v. State, 110 Nev. 103, 113, 867 P.2d 1136, 1142 (1994); Francis v. Franklin, 471 U.S. 307, 314-15 (1985) (citing Ulster County Court v. Allen, 442 U.S. 140, 157-63 (1979)) (regarding flight as consciousness of guilt, which is analogous to concealment of evidence as consciousness of guilt).

[6]See Etcheverry v. State, 107 Nev. 782, 784-85, 821 P.2d 350, 351 (1991) (citing McCall v. State, 91 Nev. 556, 557, 540 P.2d 95, 95 (1975)).

[7]Pertgen v. State, 110 Nev. 554, 560, 875 P.2d 361, 364 (1994) (citing Emmons v. State, 107 Nev. 53, 60-61, 807 P.2d 718, 723 (1991)).

> If you find the defendant committed the offense of First Degree Murder, Second Degree Murder, or Voluntary Manslaughter, then you must further determine whether a firearm or other deadly weapon was used during the commission of the offense. If you find that the defendant aided and abetted or conspired with another person who committed the murders, as defined elsewhere in these instructions, then you do not need to find that the defendant personally used the firearm or other deadly weapon.

Jury Instruction 26A was proper because Bobby was not charged with conspiracy as a separate count. Rather, he was charged with the crime of murder. Jury Instruction 26A properly allowed the jury to apply a deadly weapons enhancement to the murder charge based on the theories of murder, aiding and abetting, or co-conspiracy.

Third, Bobby asserts the district court committed plain error by not providing a cautionary instruction sua sponte for the testimony of Nicholson and Muir. We disagree.

Bobby did not request a cautionary instruction for Nicholson and Muir or object to the cautionary instruction given for Ray Gardner, a witness who testified he observed Roger threaten Rasmussen. Failure to propose a limiting instruction at trial bars the issue on appeal.[8] Only in extraordinary circumstances does the district court need to give a limiting instruction sua sponte.[9] Appellate review is precluded unless the

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[8]Rice v. State, 113 Nev. 1300, 1311, 949 P.2d 262, 269 (1997) (citing Richardson v. State, 91 Nev. 266, 268, 534 P.2d 913, 915 (1975)).

[9]Id. (citing Levi v. State, 95 Nev. 746, 749, 602 P.2d 189, 190 (1979)).

instruction is so essential to the case that failure to give such an instruction is plain error.[10]

Bobby cites to Champion v. State[11] to support his position. In Champion, a proper cautionary instruction regarding an addict-informer's testimony was vital to the case.[12] The State conceded the addict-informer was "about as unreliable an addict-informer as you can have," and this was known by the district attorney and police.[13] Furthermore, the addict-informer's testimony was the only evidence provided to show the defendant gave drugs to the addict-informer.[14] We held it was plain error for the district court not to give a cautionary instruction sua sponte.[15]

In King v. State, we distinguished Champion because the informant "was not known to be or deemed unreliable."[16] Substantial evidence existed to corroborate the informant's testimony.[17] Also, "the jury was instructed on the relevance of felony convictions sustained by [the informants] and inducements" provided by the prosecution.[18]

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[10]Gebert v. State, 85 Nev. 331, 333-34, 454 P.2d 897, 899 (1969) (citing Garner v. State, 78 Nev. 366, 373, 374 P.2d 525, 529 (1962)).

[11]87 Nev. 542, 490 P.2d 1056 (1971).

[12]Champion v. State, 87 Nev. at 544, 490 P.2d at 1057.

[13]Id. at 543, 490 P.2d at 1057.

[14]Id. at 543-44, 490 P.2d at 1057.

[15]Id. at 544, 490 P.2d at 1057.

[16]116 Nev. 349, 355, 998 P.2d 1172, 1176 (2000).

[17]King v. State, 116 Nev. at 355, 998 P.2d at 1176.

[18]Id. at 355-56, 998 P.2d at 1176.

The instant case is distinguishable from Champion and analogous to King. The State does not concede the informants were known to be unreliable. The jury was made aware of the informants' criminal backgrounds and the minimal inducements provided to the informants. A general cautionary instruction was given regarding the weight and credibility of witness testimony. Muir and Nicholson were aware of facts not revealed in the media. Bobby admitted to having conversations with the informants. Furthermore, the State provided independent circumstantial evidence that Bobby was involved in the murders. We hold, therefore, the district court did not commit plain error by failing to issue a cautionary instruction sua sponte for Nicholson and Muir.

Fourth, Bobby claims it was error to admit testimony regarding Roger's statements because a conspiracy had not been established. Bobby also argues that even if a conspiracy had been established, the co-conspirator exception does not apply because the statements were made after the aim of the conspiracy was accomplished. We disagree.

"[B]efore an out-of-court statement by an alleged co-conspirator may be admitted into evidence against a defendant, the existence of a conspiracy must be established by independent evidence, and the statement must have been made during the course of and in furtherance of the conspiracy."[19] The existence of a conspiracy for the purpose of admitting co-conspirator statements need only be established

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[19]Wood v. State, 115 Nev. 344, 349, 990 P.2d 786, 789 (1999) (citing Carr v. State, 96 Nev. 238, 239, 607 P.2d 114, 116 (1980)); see NRS 51.035(3)(e).

by "slight evidence."[20] "'[C]onspiracy is seldom susceptible of direct proof and is usually established by inference from the conduct of the parties.'"[21] Contrary to Bobby's argument, a conspiracy does not necessarily terminate at the completion of the main objective, "but can continue during the period when coconspirators perform affirmative acts of concealment."[22] We agree and conclude the district court did not abuse its discretion[23] in admitting Roger's statements under the co-conspirator exception because the State met the threshold of prima facie evidence and the statements were made in furtherance of the conspiracy.[24] The district court determined there was at least slight evidence to support a charge of conspiracy.

The slight evidence standard for establishing a conspiracy was satisfied. Evidence of a conspiracy was supported by Bobby's admission that he was with Roger on the night of the murders. The conspiracy was further supported by the fact Bobby owned one of the murder weapons. Additional evidence was provided by Oxley's testimony that Bobby asked him to report the .380's as stolen and to help look for a gun on Mt. Rose Highway.

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[20]McDowell v. State, 103 Nev. 527, 529, 746 P.2d 149, 150 (1987).

[21]Doyle v. State, 112 Nev. 879, 894, 921 P.2d 901, 911 (1996) (quoting Gaitor v. State, 106 Nev. 785, 790 n.1, 801 P.2d 1372, 1376 n.1 (1990)).

[22]Foss v. State, 92 Nev. 163, 167, 547 P.2d 688, 691 (1976) (citing Goldsmith v. Sheriff, 85 Nev. 295, 304, 454 P.2d 86, 93 (1969)).

[23]Colon v. State, 113 Nev. 484, 491, 938 P.2d 714, 719 (1997) (citing Petrocelli v. State, 101 Nev. 46, 52, 692 P.2d 503, 508 (1985)).

[24]Wood v. State, 115 Nev. at 349, 990 P.2d at 789 (citing Carr, 96 Nev. at 239, 607 P.2d at 116).

Most importantly, the testimony of Muir and Nicholson provided a separate, independent source of evidence establishing a conspiracy. Both informants testified that Bobby admitted to participating in the murders while housed at the Washoe County Jail. The testimony of a jailhouse informant is admissible "against the accused without violating his state or federal constitutional rights" where the informant acts "on his own initiative and not pursuant to any specific prior agreement with law enforcement."[25]

Fifth, Bobby argues the phone records should have been excluded because they were irrelevant and more prejudicial than probative. He further alleges the appropriate standard for authentication was NRS 52.075 and not NRS 52.015. We disagree.

"The decision to admit or exclude relevant evidence, after balancing the prejudicial effect against the probative value, is within the sound discretion of the trial judge"[26] and "[t]he trial court's determination will not be overturned absent manifest error or abuse of discretion."[27] Relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence."[28]

Here, the district court found the records were relevant and went "to the circumstantial nature of the case." Phone records were

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[25]Thompson v. State, 105 Nev. 151, 156, 771 P.2d 592, 596 (1989).

[26]K-Mart Corporation v. Washington, 109 Nev. 1180, 1186, 866 P.2d 274, 278 (1993) (citing NRS 48.035).

[27]Id. (citing Jeep Corporation v. Murray, 101 Nev. 640, 646, 708 P.2d 297, 301 (1985)).

[28]NRS 48.015.

admitted into evidence to show the volume of calls made and numbers dialed from Bobby's phone during the timeframe of the murders. The State did not attempt to prove the content of the conversations or who was involved in the conversations. Consequently, we conclude the district court did not abuse its discretion by admitting phone records into evidence under NRS 52.015.[29]

Sixth, Bobby claims the district court had a duty to strike Muir's testimony sua sponte because his statements were unreliable. He argues that Muir's testimony could not necessarily be believed because Muir said it was difficult to tell whether Bobby's statements were true since Bobby had a tendency to ramble and boast.[30] We disagree.

Bobby did not object or make a motion to strike at trial. Failure to move to strike precludes appellate review.[31] As stated previously, this court may review plain error sua sponte.[32] Jurors, as the finders of fact, must determine the weight of evidence and credibility of witness testimony. Here, jurors were given an instruction regarding the weight of evidence and credibility of witness testimony. The district court also instructed the jury that if they believe a witness "has willfully sworn falsely, they may disregard the whole evidence of any such witness." Muir

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[29]Authentication "is satisfied by evidence or other showing sufficient to support a finding that the matter in question is what its proponent claims." NRS 52.015.

[30]See Marvelle v. State, 114 Nev. 921, 931, 966 P.2d 151, 157 (1998) (citing State v. Oliver, 372 S.E.2d 256, 260 (Ga. Ct. App. 1988)) (It is error to allow a witness to vouch for the truthfulness of another.).

[31]Clark v. State, 89 Nev. 392, 393, 513 P.2d 1224, 1224-25 (1973) (citing State v. Fouquette, 67 Nev. 505, 523-24, 221 P.2d 404, 414 (1950)).

[32]Pertgen v. State, 110 Nev. 554, 560, 875 P.2d 361, 364 (1994) (citing Emmons v. State, 107 Nev. 53, 60-61, 807 P.2d 718, 723 (1991)).

testified he thought Bobby boasted about "monetary things," but not about "killing people." Muir also said he "just told the investigators what Bobby Stroup told me, and they could do – put it together however which way they want to." We conclude the district court did not abuse its discretion by failing to strike Muir's testimony sua sponte.

Seventh, Bobby asserts his speedy trial rights were violated because his trial was delayed by eight years and seven months and he was allowed to stand trial in California before being extradited to Nevada. Bobby also argues that if he had been prosecuted in Nevada first, instead of California, he would never have met or spoken to Nicholson and Muir. We disagree.

Barker v. Wingo[33] provides criteria to weigh the validity of a Sixth Amendment speedy trial right claim. Considerations include the length of delay, reason for delay, defendant's assertion of his right, and prejudice to the defendant.[34] Unless the delay is long enough to be presumptively prejudicial, inquiry into the other factors is not necessary.[35] A one-year delay satisfies the threshold requirement of Barker, so further inquiry is required.

"[D]ifferent weights should be assigned to different reasons" for delay.[36] Valid reasons for postponing a trial are weighted in favor of the government.[37] However, a valid reason does not necessarily mean a

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[33]407 U.S. 514, 530 (1972).

[34]Barker v. Wingo, 407 U.S. at 530.

[35]Id.

[36]Id. at 531.

[37]Id.

defendant's right to a speedy trial has not been violated. This is merely one factor to be considered in the balancing test.[38] The district court found the vast majority of delay was caused by Bobby's refusal to waive extradition, his request for time to consider whether to challenge the warrant, and the criminal charges brought against him in California. "When a defendant violates the laws of several different sovereigns . . . at least one sovereign, and perhaps more, will have to wait its turn at the prosecutorial turnstile."[39] California and Nevada both have extradition statutes allowing government officials to reach an agreement regarding who will prosecute a defendant first.[40] While out on bail for a homicide in California, Bobby was arrested on an extradition warrant for the homicides committed in Nevada. Bobby stood trial in California first and was immediately remanded to Nevada for trial.

Bobby provided minimal support for his speedy trial argument. At a hearing on a pretrial writ, Bobby presented the testimony of William Osterhoudt, the attorney who represented him in California. No other evidence was presented. The hearing had been delayed by several months to allow Bobby's counsel to get subpoenas and have the California prosecutor testify regarding conversations he had with Nevada authorities. Bobby, however, failed to have the prosecutor testify at the hearing.

Lastly, Bobby has not demonstrated he was prejudiced by the delay. He cites to Doggett v. United States, where the United States Supreme Court stated that "affirmative proof of particularized prejudice is

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[38]Id. at 533.

[39]U.S. v. Grimmond, 137 F.3d 823, 828 (4th Cir. 1998).

[40]NRS 179.187, 179.215; Cal. Penal 1553.1, 1551.3.

not essential to every speedy trial claim."[41] The Court further stated that "such presumptive prejudice cannot alone carry a Sixth Amendment claim without regard to the other Barker criteria," but "its importance increases with the length of delay."[42] In Doggett, a delay of eight and a half years between the time the defendant was indicted and brought to trial in combination with government negligence was held to violate the Sixth Amendment.[43] The Sixth Amendment speedy trial provision is triggered by indictment, arrest or other official accusation[44] and does not apply until the suspect "in some way becomes an 'accused.'"[45] Here, Bobby did not become an "accused" until a criminal complaint was filed on August 17, 1998. Thus, the relevant time period began when charges were filed, not when the murders occurred in 1991. We conclude Bobby's Sixth Amendment speedy trial right has not been violated by post-indictment delay.

Eighth, Bobby raises a Fifth Amendment due process challenge for pre-accusation delay. Bobby argues he was prejudiced by the delay because Jerry Andrews died before this case was brought to trial. According to Bobby, the State theorized Jerry was a third co-conspirator and participated in the abduction and murder of Rasmussen and Strawbridge. The burned vehicle found in Toiyabe National Forest was registered to Jerry's wife and evidence indicates it was the same vehicle

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[41]505 U.S. 647, 655 (1992) (citing Moore v. Arizona, 414 U.S. 25, 26 (1973)).

[42]Doggett v. United States, 505 U.S. at 656.

[43]Id. at 657-58.

[44]Id. at 655.

[45]United States v. Marion, 404 U.S. 307, 313 (1971).

used in the kidnapping. Bobby claims Jerry would have testified he was located in a different part of Lake Tahoe when the murders occurred and did not authorize his car to be used to abduct the victims. He further contends the prosecution was negligent in waiting more than seven years to file an indictment. We disagree.

A violation of the Due Process Clause of the Fifth Amendment occurs when a defendant's right to a fair trial is substantially prejudiced by pre-indictment delay and "the delay was an intentional device [by the State] to gain [a] tactical advantage."[46] Prosecutors are not required to file charges "as soon as probable cause exists"[47] and "investigative delay does not deprive [a defendant] of due process, even if his defense might have been somewhat prejudiced by the lapse of time."[48]

Jerry died shortly after the crime occurred in October 1991. Further, the State had insufficient evidence to prosecute until Oxley came forward and attributed one of the murder weapons to Bobby. Thus, we conclude Bobby's due process rights were not violated by pre-accusation delay.

Lastly, Bobby argues the cumulative effect of the alleged errors discussed in this appeal deprived him of his constitutional right to a fair trial.[49] Since Bobby's claims of error are without merit, we hold the

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[46]Id. at 324; see also Jones v. State, 96 Nev. 240, 242, 607 P.2d 116, 117 (1980) (explaining that to provide basis for dismissal, "an accused must show that the [pre-indictment] delay prejudiced his right to a fair trial and that the government delayed to gain a tactical advantage").

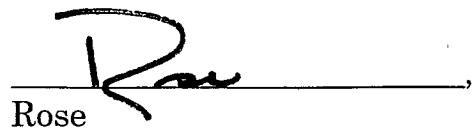
[47]United States v. Lovasco, 431 U.S. 783, 791 (1977).

[48]Id. at 796.

[49]See Big Pond v. State, 101 Nev. 1, 3, 692 P.2d 1288, 1289 (1985) (reversal of conviction warranted by cumulative effect of errors).

cumulative effect of any such error was insufficient to deprive Bobby of his right to a fair trial.

Accordingly, we ORDER the judgment of the district court AFFIRMED.



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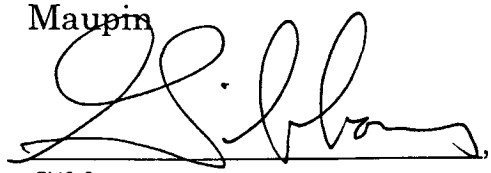

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Gibbons

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Washoe County District Attorney
Washoe District Court Clerk