IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD ALLISON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87082

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of robbery. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

In 2021, appellant Ronald Allison entered a casino, approached a cage cashier, and placed a bag on the cashier's counter, with what sounded like metallic contents. Allison passed a note to the cashier, demanding gaming chips "or boom." The cashier complied and gave Allison ten purple gaming chips. When law enforcement apprehended Allison shortly thereafter, they found ten purple gaming chips in his pockets. After a jury trial, Allison was convicted of robbery. Allison raises four contentions on appeal.

First, Allison argues that the district court abused its discretion by denying the request for an evidentiary hearing on the defense's fair-cross-section challenge to the venire. *See Valentine v. State*, 135 Nev. 463, 464, 454 P.3d 709, 713 (2019) (reviewing the denial of an evidentiary hearing for an abuse of discretion). A criminal defendant is entitled to "a venire selected from a fair cross section of the community." *Williams v. State*, 121 Nev. 934, 939, 125 P.3d 627, 631 (2005). When a defendant makes a fair-cross-section challenge, they are entitled to an evidentiary hearing if they have made a prima facie showing of a violation of that right,

which includes, among other requirements, that there was underrepresentation of a distinctive group in the community "due to systematic exclusion of th[at] group in the jury-selection process." *Valentine*, 135 Nev. at 465-66, 454 P.3d at 713-14.

Here, Allison contends that the alleged underrepresentation of Native Americans in the venire was because the jury commissioner did not use tribal registry lists as one of the sources from which potential jurors were selected. The district court noted that Native Americans made up 2% of all prospective jurors that reported for jury service that day (exceeding the 2021 census estimate provided by Allison that Native Americans made up 1.2% of the population of Clark County) and that the race statistics for jury selection in 2021, the previous year, showed that approximately 1% of all prospective jurors coming in for jury service were Native American, both of which indicated that Native Americans were not being systematically excluded. *See Williams*, 121 Nev. at 939, 125 P.3d at 631 (explaining that "[t]he Sixth Amendment does not guarantee a jury or even a venire that is a perfect cross section of the community"). Even assuming that Native Americans were underrepresented in the venire, Allison did no more than speculate as to how that was due to the systematic exclusion of Native Americans from jury service or why Native Americans would not be captured by the other sources used by the jury commissioner, such as voter registration, the DMV, and public utilities. *See* NRS 6.045(3). As Allison failed to make sufficient factual allegations to warrant an evidentiary hearing on the issue, the district court did not abuse its discretion by denying him one. *See Valentine*, 135 Nev. at 466, 454 P.3d at 714.

Second, Allison argues that the prosecutors engaged in misconduct by introducing a surveillance video labeled "cage robbery" (the

label only appeared in the bottom right corner when the video was paused). When assessing a claim of prosecutorial misconduct, to which a timely objection was made, this court determines whether the prosecutor's conduct was improper and, if so, whether the conduct warrants reversal under a harmless error analysis. *Valdez v. State*, 124 Nev. 1172, 1188, 196 P.3d 465, 476 (2008). Here, the State concedes that the video's label was improper but argues the error was harmless. We agree, as the district court provided a limiting instruction to the jury at Allison's request, which instructed the jurors to disregard the label name and not consider it in their deliberations. This court presumes that jurors follow instructions. *See Hymon v. State*, 121 Nev. 200, 211, 111 P.3d 1092, 1100 (2005). Furthermore, there was strong evidence supporting Allison's conviction, including the cashier's testimony and the fact the gaming chips were recovered from Allison. *See Guidry v. State*, 138 Nev., Adv. Op. 39, 510 P.3d 782, 793 (2022) (concluding that prosecutorial misconduct does not undermine the soundness of convictions supported by strong evidence of guilt). Therefore, any error was harmless, and reversal is not warranted on this issue. *See* NRS 178.598 (harmless error standard).

Third, Allison argues that the district court erred in admitting surveillance videos because the witnesses called to authenticate the surveillance videos did not save and compile the video clips themselves. The witnesses testified that they were familiar with the workings of their employers' video surveillance systems and the policies and procedures for those systems, and that the admitted videos were saved in compliance with those policies and procedures. This testimony sufficiently authenticated the surveillance videos, and Allison has revealed nothing that throws their authenticity into question. *See* NRS 52.025 ("The testimony of a witness is

sufficient for authentication or identification if the witness has personal knowledge that a matter is what it is claimed to be."); *see also Thomas v. State*, 114 Nev. 1127, 1148, 967 P.2d 1111, 1124 (1998) (recognizing that a "qualified person" to authenticate a business record "has been broadly interpreted as anyone who understands the record-keeping system involved"). Because the State properly authenticated the surveillance videos, we conclude the district court did not abuse its discretion in admitting them. *Means v. State*, 120 Nev. 1001, 1007-08, 103 P.3d 25, 29 (2004) (explaining that this court reviews a district court's decision to admit or exclude evidence for an abuse of discretion).

Finally, Allison argues cumulative error requires reversal. *See Mulder v. State*, 116 Nev. 1, 17, 922 P.2d 845, 854-55 (2000) (providing the relevant factors to consider for a claim of cumulative error). We disagree. As we have only identified one error—the "cage robbery" video label—there is nothing to cumulate. *See Lipsitz v. State*, 135 Nev. 131, 139 n.2, 442 P.3d 138, 145 n.2 (2019) (concluding that there were no errors to cumulate when the court found only a single error). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

_____, J.
Herndon

_____, J.
Lee

_____, J.
Bell

cc: Hon. Eric Johnson, District Judge
Legal Resource Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk