

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROGER YOUNG,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38187

**FILED**

**DEC 12 2001**

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 four counts of burglary (Counts I, IV, V, VII), one count of robbery (Count II), two counts of grand larceny (Counts III, VI) and one count of possession of burglary tools (Count VIII). The district court sentenced appellant: for Count I, to a prison term of 18 to 96 months; for Count II, to a concurrent prison term of 35 to 156 months; for Count III, to a concurrent prison term of 12 to 48 months; for Count IV, to a consecutive prison term of 22 to 96 months; for Count V, to a consecutive prison term of 22 to 96 months; for Count VI, to a consecutive prison term of 18 to 96 months; for Count VII, to a consecutive prison term of 22 to 96 months; and for Count VIII, to a concurrent jail term of 1 year.

Appellant's sole contention is that the district court erred by denying appellant's motion to remove a juror for cause. Appellant did not use a peremptory challenge to remove the juror, and the juror was seated on the jury. NRS 175.036(1) provides that a party "may challenge an individual juror for disqualification or for any cause or favor which would prevent him as a juror from adjudicating the facts fairly." A trial court has broad discretion in ruling on challenges for cause.<sup>1</sup> Determining juror bias involves factual findings of credibility whose basis cannot be easily discerned from an appellate record.<sup>2</sup> A trial court's determination of a

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<sup>1</sup>Walker v. State, 113 Nev. 853, 865, 944 P.2d 762, 770 (1997) (citing Wainwright v. Witt, 469 U.S. 412, 428-29 (1985)).

<sup>2</sup>Id.


prospective juror's state of mind is binding on appeal if the juror's responses were equivocal or conflicting.<sup>3</sup>

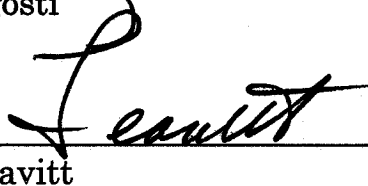
In the instant case the juror in question initially made some comments that seemed to indicate a racial bias. Upon further examination, however, she made it clear that she had no racial bias, that she could judge the appellant fairly, and that she had not prejudged appellant. The juror also replied affirmatively when asked if she would feel comfortable having people similar to herself on the jury if she were charged with offenses similar to those with which appellant was charged. We therefore conclude that the district court's finding that appellant was not racially biased is supported by the record.<sup>4</sup>

Having considered appellant's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

cc: Hon. Donald M. Mosley, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Clark County Public Defender  
Clark County Clerk

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<sup>3</sup>Id.

<sup>4</sup>Cf., Thompson v. State, 111 Nev. 439, 442, 894 P.2d 375, 376-77 (1995) (juror should have been excused for cause where juror's statements, taken as a whole, demonstrated that juror would be unable to reach a verdict impartially).