

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAYMOND EDWARD CURRINGTON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 38407

**FILED**

OCT 16 2002

ORDER OF AFFIRMANCE

JANETTE H. SLOW  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction upon a jury verdict of first degree murder with the use of a deadly weapon, robbery with the use of a deadly weapon, conspiracy to commit robbery with the use of a deadly weapon, and possession of stolen property. On appeal, Raymond Currington makes several arguments.

First, we conclude the district court did not abuse its discretion in refusing to sever the trial. Prior to trial, the district court attempted to identify antagonistic defenses between the defendants. There was no indication the defendants intended to implicate each other.

We conclude that failure to sever did not have a "substantial and injurious effect" on the verdict.<sup>1</sup> The prosecution introduced evidence proving both men guilty without reliance on any of the antagonistic testimony from either defendant's witnesses. This evidence included admissions from both defendants linking them to the murder. Thus, we conclude the district court did not abuse its discretion and reversal is not warranted.

Second, we conclude the district court did not abuse its discretion in admitting evidence of Currington's ethnic animus because it

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<sup>1</sup>Middleton v. State, 114 Nev. 1089, 1108, 968 P.2d 296, 309 (1998).

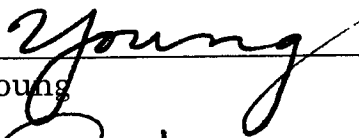
was relevant to show motive and its probative value was not substantially outweighed by undue prejudice.<sup>2</sup>

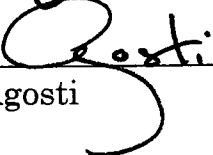
Finally, after careful consideration, we find without merit Currington's arguments that the district court committed plain error in failing to give an informant cautionary instruction and in not striking the testimony of Charles Swift.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

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

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

cc: Hon. Jerome Polaha, District Judge  
Richard F. Cornell  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

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<sup>2</sup>See Quillen v. State, 112 Nev. 1369, 1377, 925 P.2d 893, 898 (1996).