

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAY LAGPACAN MCBRIDE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 88244-COA

**FILED**

JAN 13 2026

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT

BY W. Jones  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Ray Lagpacan McBride appeals from a judgment of conviction, entered pursuant to a jury verdict, of first-degree murder with the use of a deadly weapon and felon in possession of a firearm. Second Judicial District Court, Washoe County; Egan K. Walker, Chief Judge.

First, McBride argues the district court erred by reading the information to the entire prospective jury panel in violation of NRS 175.141(1). McBride contends the error was not harmless because the district court failed to contemporaneously instruct the prospective jurors that the charging document is not considered evidence and is not itself evidence of guilt. Because McBride did not object below, we review for plain error. *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48-49 (2018). To demonstrate plain error, an appellant must show that: “(1) there was an ‘error’; (2) the error is ‘plain,’ meaning that it is clear under current law from a casual inspection of the record; and (3) the error affected the defendant’s substantial rights.” *Id.* at 50, 412 P.3d at 48. “[A] plain error affects a defendant’s substantial rights when it causes actual prejudice or a miscarriage of justice (defined as a ‘grossly unfair’ outcome).” *Id.* at 51, 412 P.3d at 49.

NRS 175.141(1) requires that, after the jury has been impaneled and sworn in a trial for a felony offense, the clerk must read the information or indictment and state the plea of the defendant to the jury. Jury instructions taken as a whole may be sufficient to cure ambiguity. See *Tanksley v. State*, 113 Nev. 844, 849, 944 P.2d 240, 243 (1997). And the jury is presumed to follow the instructions. *Summers v. State*, 122 Nev. 1326, 1333, 148 P.3d 778, 783 (2006).

Prior to the jury being impaneled and sworn, the district court had the clerk read the information to the entire prospective jury panel. After being impaneled and sworn but prior to receiving any evidence, the jury was instructed that its duty was to decide from the evidence presented whether McBride was guilty or not guilty and what the facts were from the evidence “which will be presented.” Further, the jury was instructed that “evidence is only the sworn testimony by a witness while court is in session, documents, and other things received into evidence as exhibits.” Prior to deliberation, the jury was instructed that “[a]n Information is a formal method of accusing a Defendant of a crime and is not itself evidence of guilt.” In light of these instructions, we conclude McBride fails to demonstrate that any error in reading the information prior to impaneling and swearing the jury affected his substantial rights. Therefore, McBride is not entitled to relief based on this claim.

Second, McBride argues the district court erred by allowing the State to introduce the testimony of two eyewitnesses who testified that McBride offered to give them money in exchange for their silence about the shooting. McBride contends that this testimony was other act evidence and that the court was required to conduct a hearing prior to its admission and provide a limiting instruction. Because McBride did not object below, we

review for plain error. *Jeremias*, 134 Nev. at 50, 412 P.3d at 48-49. We conclude the district court did not plainly err by admitting the evidence without conducting a hearing or instructing the jury because the testimony implicated McBride's consciousness of his guilt and his attempts to influence witnesses. *See Abram v. State*, 95 Nev. 352, 356, 594 P.2d 1143, 1145 (1979) ("Declarations made after the commission of the crime which indicate consciousness of guilt, or are inconsistent with innocence, or tend to establish intent may be admissible."); *United States v. Hammond*, 781 F.2d 1536, 1540 (11th Cir. 1986) ("Courts may consider evidence of attempts to influence a witness as relevant in showing a consciousness of guilt."); *see also Evans v. State*, 117 Nev. 609, 628, 28 P.3d 498, 512 (2001) (holding that "[e]vidence that after a crime a defendant threatened a witness with violence is directly relevant to the question of guilt" and thus such evidence "is neither irrelevant character evidence nor evidence of collateral acts requiring a hearing before its admission"), *overruled on other grounds by Lisle v. State*, 131 Nev. 356, 366 n.5, 351 P.3d 725, 732 n.5 (2015). Accordingly, McBride is not entitled to relief based on this claim.

Third, McBride argues the district court erred by submitting instruction no. 30<sup>1</sup> to the jury over his objection. McBride contends instruction no. 30 was an incorrect statement of law and impermissibly

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<sup>1</sup>Instruction no. 30 provided:

Motive is not an element of the crime charged and need not be shown. However, you may consider motive as a circumstance in this case. Presence of motive may tend to establish guilt. Absence of motive may tend to establish innocence. You will therefore give its presence or absence, as the case may be, the weight to which you find it to be entitled.

shifted the burden to the defense by instructing the jury that innocence must be established. “Although we generally review jury instructions for an abuse of discretion or judicial error, when the question is whether an instruction is an accurate statement of the law, our review is de novo.” *Moore v. State*, 136 Nev. 620, 622, 475 P.3d 33, 35 (2020). “Even though motive is not an element of a crime and need not be proven, it has virtually always been an integral element of proof in a criminal trial.” *Chadwick v. State*, 140 Nev., Adv. Op. 10, 546 P.3d 215, 223 (Ct. App. 2024) (citation omitted).

In *State v. Tecope*, the Nevada Supreme Court held that a “motive is not essential to a conviction.” 54 Nev. 308, 314, 15 P.2d 677, 678 (1932). To support its holding, the court relied on the California Supreme Court’s reasoning that “[t]he presence of a motive is evidence tending to prove guilt, for the reason that its tendency is to rebut the presumption of innocence[;] [b]ut the presence or absence of motive is essentially a question of fact, and, like any other fact, is not necessary to be proved.” *Id.* at 314-15, 15 P.2d at 678 (quoting *People v. Tom Woo*, 184 P. 389, 394 (Cal. 1919) (stating “absence of motive tends to support the presumption of innocence”)). *Tecope* has not been overruled, and the above-quoted concepts are consistent with instruction no. 30. Therefore, we conclude that instruction no. 30 is not an incorrect statement of the law. Further, taken as a whole, the jury instructions provided that the burden of proof lay with the State. *See Tanksley*, 113 Nev. at 849, 944 P.2d at 243 (providing that jury instructions taken as a whole may be sufficient to cure ambiguity). And the jury is presumed to follow the instructions. *See Summers*, 122 Nev. at 1333, 148 P.3d at 783. Accordingly, we conclude the district court did not

err by submitting instruction no. 30 and McBride is not entitled to relief based on this claim.

Fourth, McBride argues the district court erred by submitting instruction no. 30 because it conflicted with instruction no. 21. McBride contends that because instruction no. 21 defined malice aforethought “as a condition of the mind that may result from any unjustifiable or unlawful motive,” and instruction no. 30 provided the State did not need to prove motive, a contradiction existed between the two instructions that could have led a juror to incorrectly conclude the State did not have to prove malice aforethought because it did not have to prove motive. Because McBride did not object to the challenged jury instruction below, we review for plain error. *See Jeremias*, 134 Nev. at 50, 412 P.3d at 48-49. The trial court has a duty “to refrain from instructing on principles of law which not only are irrelevant to the issues raised by the evidence but also have the effect of confusing the jury or relieving it from making findings on relevant issues.” *Gonzalez v. State*, 131 Nev. 991, 997, 366 P.3d 680, 684 (2015) (quoting *People v. Alexander*, 235 P.3d 873, 935 (Cal. 2010)).

We note initially that McBride does not argue instruction no. 21 contains an incorrect statement of the law. Further, the jury was instructed on the State’s burden of proof and the elements of murder. While instruction no. 21 defined malice aforethought in a manner that included the word motive, instruction no. 18 included the essential elements of murder, including malice aforethought, but contained nothing about motive. We presume the jury followed this instruction. *See Summers*, 122 Nev. at 1333, 148 P.3d at 783. Considering the instructions as a whole, *see Tanksley*, 113 Nev. at 849, 944 P.2d at 24, we conclude McBride fails to demonstrate that upon casual inspection of the record, instruction no. 30

clearly confused the jury or relieved it from making findings relevant to malice. Therefore, McBride is not entitled to relief based on this claim.

Finally, McBride argues the district court abused its discretion at sentencing by disregarding the significant mitigation evidence McBride presented and relying on suspect conjecture regarding McBride's prior gang affiliation. The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Generally, this court will not interfere with a sentence imposed by the district court that falls within the parameters of relevant sentencing statutes "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); *see Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).

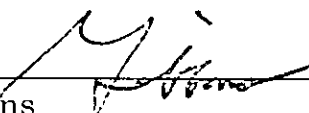
Before announcing its sentencing decision, the district court stated it had read McBride's sentencing memorandum and it heard argument regarding McBride's mitigating circumstances, including argument that the murder was the result of provocation and impulsiveness. Nothing in the record suggests the district court did not consider McBride's mitigation evidence before imposing McBride's sentence of life in prison without the possibility of parole for the murder count, a consecutive 96-to-240-month prison sentence for the deadly weapon enhancement, and a consecutive 19-to-60-month prison sentence for the prohibited-person-in-possession count. Rather, the record reflects the district court's consideration of both mitigating and aggravating circumstances before imposing sentence. Further, the sentences imposed are within the

parameters provided by the relevant statutes. See NRS 193.165(1); NRS 200.030(4)(b)(1); NRS 202.360(1).

Finally, McBride did not object to the district court's statements regarding his purported gang affiliation, and he fails to demonstrate that any error affected his substantial rights where the district court clearly indicated that the crime was not gang related but rather that McBride "acts" like a gang member based on his criminal history and the fact that his actions were "consistent with what folks who are involved in the gang lifestyle do in their interpersonal interactions." Having considered the sentences and the crimes, we conclude the district court did not abuse its discretion in sentencing McBride. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Egan K. Walker, Chief Judge  
Attorney General/Carson City  
Ristenpart Law  
Washoe County Alternate Public Defender  
Washoe County District Attorney  
Washoe District Court Clerk