IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMAR STEELE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90049

FILED

JAN 15 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of escape from custody and three counts of lewdness with a minor under the age of 14. Eighth Judicial District Court, Clark County; Eric Johnson, Judge. Appellant Jamar Steele raises four issues on appeal.

Counts I and II

Steele contends two of the three convictions for lewdness with a minor (counts I and II) must be reversed. Steele argues insufficient evidence supports the convictions, and that they are redundant because both occurred in the same bedroom, during the same period of time, and were interrupted only when Steele checked the door after hearing a knock. *See State v. Eighth Jud. Dist. Ct. (Hedland)*, 116 Nev. 127, 136, 994 P.2d 692, 698 (2000) ("[W]here a defendant is convicted of two offenses that, as charged, punish the exact same illegal act, the convictions are redundant.").

First, sufficient evidence supports the convictions. The victim testified that Steele brought her to an unoccupied bedroom, sat her on his lap, and then kissed her neck and touched her breasts under her clothing. Steele got up to check the door, and then sat down again, placed the victim back on his lap, and resumed touching her breasts. The victim recalled

distinctions between the two instances of lewdness. Before checking the door, Steele kissed the victim on the neck and spoke to her. After checking the door, Steele wrapped the victim's legs around his waist, and she could feel his erection through his clothing. We conclude this is sufficient evidence to support Steele's lewdness convictions on counts I and II. *See Mariscal-Ochoa v. State*, 140 Nev., Adv. Op. 42, 550 P.3d 813, 822 (2024) (concluding a victim's testimony is sufficient to sustain a conviction for sexual assault "so long as the victim testifies with *some* particularity regarding the incident" (internal quotation marks omitted)).

Turning to whether the convictions are redundant, we conclude Steele getting up to check the door resulted in two separate acts of lewdness. *See Townsend v. State*, 103 Nev. 113, 121, 734 P.2d 705, 710 (1987) (recognizing that "separate and distinct acts of sexual assault committed as part of a single criminal encounter may be charged as separate counts, and convictions may be entered thereon"). The facts here are analogous to *Wright v. State*, 106 Nev. 647, 799 P.2d 548 (1990). There, we affirmed separate convictions for attempted sexual assault and completion of the sexual assault when the perpetrator stopped and waited while a car passed. *Id.* at 650, 799 P.2d at 549-50. Likewise, Steele engaged in lewd acts with the victim on his lap, stopped when he became concerned he might be detected, opened the door to check for potential witnesses, then placed the victim back on his lap and committed a separate lewd act. As in *Wright*, the interruption and subsequent reinitiation of activity made the lewd acts before and after the interruption separate and distinct. Accordingly, sufficient evidence supports Steele's separate convictions for lewdness with a minor on counts I and II.

Admission of a prior sexual offense

Steele argues the district court abused its discretion by admitting evidence of a prior sexual offense—an attempted sexual assault in 2010. "A district court's decision to admit or exclude evidence is discretionary." *State v. Eighth Jud. Dist. Ct. (Doane)*, 138 Nev. 896, 899, 521 P.3d 1215, 1220 (2022). "NRS 48.045(3) unambiguously permits the district court to admit prior sexual bad acts for propensity purposes in a criminal prosecution for a sexual offense." *Franks v. State*, 135 Nev. 1, 4, 432 P.3d 752, 755 (2019).

Before evidence may be admitted under NRS 48.045(3), "the district court must determine that (1) the other sexual offense is relevant to the crime charged, (2) the other offense is proven by a preponderance of [the] evidence, and (3) the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice." *Doane*, 138 Nev. at 902, 521 P.3d at 1222. The evidence of Steele's 2010 sexual offense clears the first two prongs because it was relevant to establish Steele's propensity to commit a sexual offense, and it was proven by a preponderance of the evidence through both the 2010 victim's testimony and Steele's guilty plea to attempted sexual assault.

Turning to the third prong of whether the probative value of the evidence was substantially outweighed by the danger of unfair prejudice, the record demonstrates the district court carefully considered the similarities and differences between the 2010 and instant offenses, the remoteness of the 2010 offense, and the necessity of admitting the evidence. *See Franks*, 135 Nev. at 6, 432 P.3d at 756 (adopting non-exhaustive factors including similarity, frequency, and remoteness of prior offenses as well as any intervening factors "to address the highly probative yet prejudicial nature of [prior sexual offense] evidence"); *see also United States v. LeMay*,

260 F.3d 1018, 1029 (9th Cir. 2001) (concluding a ten-year lapse since a prior offense did "not render the decision to admit relevant evidence of similar prior acts an abuse of discretion"). Thus, we conclude Steele has not shown the district court abused its discretion by admitting the 2010 victim's testimony. *See Jackson v. State*, 117 Nev. 116, 120, 17 P.3d 998, 1000 (2001) ("An abuse of discretion occurs if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason."); *cf. Patterson v. State*, 129 Nev. 168, 176, 298 P.3d 433, 439 (2013) (observing "that an abuse of discretion occurs whenever a court fails to give due consideration to the issues at hand").

Steele also asserts the limiting instruction on the use of the 2010 sexual offense was overly broad. But, at trial, Steele agreed the instruction was appropriate. By assenting to the instruction, Steele waived his challenge to the substance of the limiting instruction on appeal.

Motion for a new trial

Steele argues the district court erred in denying the motion for a new trial based on Steele's prior judgment of conviction being inadvertently provided to the jury during deliberations. After reviewing for an abuse of discretion, *Meyer v. State*, 119 Nev. 554, 561, 80 P.3d 447, 453 (2003), we agree. To prevail on a motion for a new trial, Steele must show the jury considered the extrinsic evidence, and that it was prejudicial. *Id.* at 562-63, 80 P.3d at 454-55. The 2010 offense was introduced to the jury via the 2010 victim's testimony. Steele's judgment of conviction for the 2010 sexual offense, which was not admitted at trial, was inadvertently sent to the jury by the district court clerk along with all other evidence admitted at trial. On the first day of deliberations, the jury sent a note to the district court asking about Steele's status as a sex offender, and whether he was

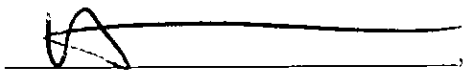
permitted to be around children, information the jury could only have learned from his judgment of conviction. Steele has thus demonstrated the jury considered Steele's judgment of conviction.

In assessing prejudice, we consider whether "there is a reasonable probability or likelihood" the extrinsic evidence affected the verdict. *Id.* at 564, 80 P.3d at 455. Several facts convince us the resulting prejudice here requires reversal. First, while much of the information in Steele's judgment of conviction could be inferred from the 2010 victim's testimony before the jury, the fact that Steele was convicted removed any doubt about the 2010 victim's credibility that the jury may have harbored. Next, the judgment of conviction may have placed undue weight on the seriousness of Steele's prior offense by informing the jury of his lengthy sentence.

Furthermore, the judgment of conviction informed the jury that Steele had to register as a sex offender and had also been convicted of robbery. Although the district court instructed the jury that no evidence demonstrated Steele's status as a sex offender, the jury saw Steele's unadmitted judgment of conviction. Lastly, despite the district court's instruction that whether Steele was a sex offender was not relevant to the instant charges, we are persuaded this information had a reasonable probability of affecting the verdict, especially given the testimony that Steele lived with multiple children. *See Franks*, 135 Nev. at 6, 432 P.3d at 757 (recognizing the inherent prejudice accompanying evidence of a defendant's prior sexual offenses). Because Steele has demonstrated that the jury considered extrinsic evidence which had a reasonable probability

of affecting the verdict, we conclude the district court abused its discretion by denying Steele's motion for a new trial.[1] Accordingly, we

ORDER the judgment of conviction REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.



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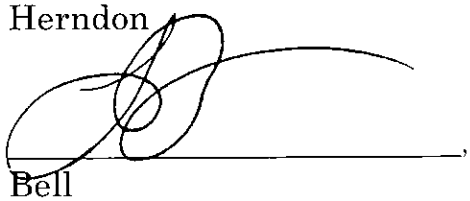

_____, J.
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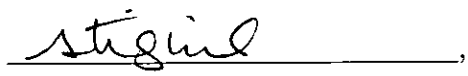

_____, J.
Stiglich

cc: Hon. Eric Johnson, District Judge
Steven S. Owens
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

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[1]Given the disposition, we need not consider Steele's argument that cumulative error warrants relief.