



IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS WILLIAM RANDOLPH,
Appellant,
v.
THE STATE OF NEVADA,
Respondent.

No. 88625

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit murder and two counts of first-degree murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Hon. Tierra Danielle Jones, Judge.

In 2017, appellant Thomas Randolph was convicted for conspiring with Michael Miller to kill Randolph's wife Sharon, and for murdering Miller and Sharon. During trial, the State presented evidence that Randolph and Miller planned a staged home invasion of the Randolph residence. During the staged burglary, Miller killed Sharon, and thereafter Randolph killed Miller. In that case, we reversed for a new trial due to the erroneous admission of propensity evidence. *See Randolph v. State*, 136 Nev. 659, 668-69, 477 P.3d 342, 351-52 (2020).

The State retried Randolph in 2023. After the second trial, the jury convicted Randolph of conspiracy to commit murder and two counts of murder with the use of a deadly weapon. Randolph was sentenced to an aggregate term of 720 months to life in prison. Randolph raises seven issues on appeal. Finding no error, we affirm.

Randolph's right to a speedy trial was not violated

Randolph argues that his right to a speedy trial was violated due to a prejudicial fifteen-year delay. "We review a district court's decision to

grant or deny a motion to dismiss an indictment based on a speedy trial violation for an abuse of discretion.” *State v. Inzunza*, 135 Nev. 513, 516, 454 P.3d 727, 730 (2019). “In evaluating whether a defendant’s Sixth Amendment right to a speedy trial has been violated, this court gives deference to the district court’s factual findings and reviews them for clear error, but reviews the court’s legal conclusions de novo.” *Id.* at 516, 454 P.3d at 730-31.

We evaluate whether a defendant’s right to a speedy trial has been violated “by applying [a] four-part balancing test.” *Id.* at 516, 454 P.3d at 731. Under the first factor, length of delay, *id.*, Randolph asserts that this court should consider the entire fifteen-year delay between the original charges and his second trial. We disagree because Randolph’s right to a speedy trial was not violated by the nine-year delay between his arrest and first trial. *See Randolph*, 136 Nev. at 669 n.8, 477 P.3d at 352 n.8. Likewise, we will not consider the length of delay during appellate review of Randolph’s first trial. *See United States v. Ewell*, 383 U.S. 116, 121 (1966) (“It has long been the rule that when a defendant obtains a reversal of a prior, unsatisfied conviction, he may be retried in the normal course of events.”). But the nineteen-month delay between remand and retrial is presumptively prejudicial and justifies considering the other factors. *Inzunza*, 135 Nev. at 516, 454 P.3d at 731.

“The second factor, the reason for the delay, focuses on whether the government is responsible for the delay and is the focal inquiry in a speedy trial challenge.” *Id.* (citation modified). Randolph points exclusively to the State’s actions leading up to the first trial as the reason for delay. Randolph argues that the State’s misconduct caused repeated delays prior to his first trial. However, the reasons for the delay prior to Randolph’s first trial were resolved during Randolph’s first appeal. *See Randolph*, 136 Nev. at 669 n.8, 477 P.3d at 352 n.8 (concluding that Randolph’s speedy trial argument

regarding the delay before his first trial lacked merit); *see also Clem v. State*, 119 Nev. 615, 620, 81 P.3d 521, 525 (2003) (“The law of the case doctrine holds that the law of a first appeal is the law of the case on all subsequent appeals in which the facts are substantially the same.”). Accordingly, the second factor does not weigh in Randolph’s favor.

“The third factor is whether in due course the defendant asserted his right to a speedy trial.” *Id.* at 518, 454 P.3d at 732 (citation modified). Randolph asserted his right to a speedy trial more than four months after the jury returned its verdict after retrial. Thus, we conclude this factor weighs in the State’s favor.

The final factor “is prejudice to the defendant.” *Id.* at 518, 454 P.3d at 732. Randolph listed ten witnesses who were allegedly important to his defense, but who died or became unavailable during the delay. Problematically, Randolph failed to support his allegations of prejudice with offers of proof or affidavits. *See Sheriff v. Berman*, 99 Nev. 102, 107, 659 P.2d 298, 301 (1983) (“Bare allegations of impairment of memory, witness unavailability, or anxiety, unsupported by affidavits or other offers of proof, do not demonstrate a reasonable possibility that the defense will be impaired at trial or that defendants have suffered other significant prejudice.”). After considering each of the relevant factors, we conclude that Randolph has not shown his right to a speedy trial was violated. Therefore, no relief is warranted on this ground.

Randolph voluntarily performed a walkthrough of the crime scene

Randolph argues the district court should have suppressed the incriminating statements Randolph made during the walkthrough of the crime scene with detectives. “[A] confession is involuntary if it was coerced by physical intimidation or psychological pressure.” *Rosky v. State*, 121 Nev. 184, 193, 111 P.3d 690, 696 (2005). We consider “the effect of the totality of the

circumstances on the will of the defendant” to determine whether a defendant’s statements were voluntary. *Camacho v. State*, 141 Nev., Adv. Op. 52, 578 P.3d 949, 958 (2025). The district court’s voluntariness determination presents a “mixed question[] of law and fact subject to this court’s de novo review.” *Rosky*, 121 Nev. at 190, 111 P.3d at 694.

Shortly after Sharon and Miller’s murders, Randolph agreed to perform a video walkthrough of the crime scene. Randolph asserts that his participation in the walkthrough and his statements during the walkthrough were involuntary because, at the time, he was coerced by law enforcement and impaired by pain medications. At the hearing on Randolph’s motion to suppress, the State introduced testimony from Detectives Clifford Mogg and Dean O’Kelley, who conducted the walkthrough. The detectives testified that Randolph was not threatened with arrest or other consequences if he did not participate in the walkthrough. In fact, Randolph agreed on video that he was participating of his “own free will.”

Next, Randolph argues that breaks in the video suggest that he was coerced during unrecorded portions of the walkthrough. However, Randolph makes no specific factual allegations about this alleged coercion, and the appellate record does not support his argument. Thus, we decline to consider this claim. *See Browning v. State*, 120 Nev. 347, 361, 91 P.3d 39, 50 (2004).

Finally, Randolph argues that the video shows he was impaired and that the detectives should have inquired further into his medication use and mental state. The detectives testified that they knew Randolph was prescribed pain medication and agreed that his eyes occasionally appeared droopy. However, both detectives testified that Randolph showed no signs of impaired understanding while responding to the detectives’ questions.

Likewise, the video shows Randolph providing clear and detailed descriptions of the night of the killings.

Under the totality of the circumstances, we conclude that Randolph's participation in the walkthrough and statements therein were voluntary. Thus, we conclude that the district court did not err when it denied Randolph's motion to suppress.

The State did not violate attorney-client privilege

Randolph argues that the district court should have dismissed the indictment against him because the State violated attorney-client privilege after jail staff impounded Randolph's computer. "Although the attorney-client privilege has been termed merely a rule of evidence and not a constitutional right, government interference with the attorney-client relationship may implicate Sixth Amendment rights." *Manley v. State*, 115 Nev. 114, 121-22, 979 P.2d 703, 707 (1999). Whether the State violated the Sixth Amendment right to counsel is reviewed de novo. *United States v. Danielson*, 325 F.3d 1054, 1066 (9th Cir. 2003).

Here, the district court permitted Randolph to purchase a computer for use in jail to view materials related to his case. But the district court ordered the computer removed, noting that Randolph "had time to complete what it was intended for." The State presented un rebutted evidence that law enforcement impounded the computer and placed it in the evidence vault. The computer remained in the vault until it was removed for inspection by Randolph. The computer was then stored in the vault until it was returned to Randolph. Randolph did not introduce evidence refuting the State's explanation and did not otherwise show that the State accessed any privileged information.

Thus, after reviewing the record, we conclude that Randolph failed

to meet his burden.¹ *See id.* at 1071 (observing the defendant has the initial burden to show that the government obtained privileged information through intentional interference). Because Randolph failed to demonstrate that the State obtained privileged attorney-client material through purposeful intrusion, the district court did not err in denying the motion to dismiss the indictment.

The district court properly instructed the jury

Randolph argues that the district court erred in instructing the jury. “The district court has broad discretion to settle jury instructions, and this court reviews the district court’s decision for an abuse of that discretion or judicial error.” *Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005).

Randolph asserts that the State failed to introduce evidence that he conspired with Miller to rob Sharon, which resulted in confusing and irrelevant robbery and felony-murder instructions. Randolph further argues that these instructions contradicted the State’s theory that the robbery was staged. We disagree because the State may propose jury instructions for “alternate theories of liability as long as there is evidence in support of those theories.” *See Walker v. State*, 116 Nev. 670, 673, 6 P.3d 477, 479 (2000).

The jury here heard evidence that Randolph hired Miller to do odd jobs and loaned Miller money. The State presented evidence that Randolph and Miller were in near daily communication in the months leading up to Sharon’s murder. In fact, the evidence showed that Miller and Randolph were together mere hours before Sharon’s murder, and that Miller knew Sharon would be home that evening. In addition, Miller’s relatives testified that,

¹To the extent Randolph argues he needed the computer to communicate with his counsel, the assertion is belied by the record. Randolph acknowledged that the computer lacked internet access and could not be used to communicate with counsel from the jail.

shortly before the killings, Miller said he would be coming into some money from Randolph and that he would be leaving the state. During the investigation, law enforcement discovered no signs of forced entry into the home. Law enforcement also found a bag containing costume jewelry and keys to the home near Miller's body and recovered a gold ring found in Miller's pocket.

The jewelry found on and around Miller's body supported a theory that Miller took Sharon's property and killed her. And circumstantial evidence supports the theory that Randolph conspired with Miller to rob and murder Sharon. *See Lewis v. State*, 100 Nev. 456, 460, 686 P.2d 219, 221-22 (1984) (“[P]articipation in a conspiracy may, in itself, be sufficient evidence of aiding and abetting an act in furtherance of the conspiracy to subject the participant to criminal liability as a principal pursuant to NRS 195.020.”); *Sena v. State*, 138 Nev. 310, 327, 510 P.3d 731, 749 (2022) (“Direct evidence is not required to establish a conspiracy, but circumstantial evidence may be relied upon.”) (quoting *Sheriff v. Lang*, 104 Nev. 539, 543, 763 P.2d 56, 59 (1988)). Therefore, Randolph has not demonstrated that the district court abused its discretion in giving the jury instructions.

Randolph was not entitled to use two attorneys during closing argument

Randolph argues that the district court misconstrued NRS 175.151 when it denied his request to use two attorneys during closing argument. “The interpretation of a statute is a question of law subject to de novo review by this court.” *Butler v. State*, 120 Nev. 879, 892, 102 P.3d 71, 81 (2004). “Statutory interpretation concerns determining legislative intent, and the starting point is the statute’s plain language.” *Martinez Guzman v. Second Jud. Dist. Ct.*, 136 Nev. 103, 106, 460 P.3d 443, 447 (2020).

NRS 175.151 states that “[i]f the indictment or information be for an offense punishable with death, two counsel on each side may argue . . . [but]

for any other offense, the court may, in its discretion, restrict the argument to one counsel on each side.” According to Randolph, NRS 175.151 gives the defendant the choice to give their closing argument with two attorneys in a murder trial, even if the State has not sought the death penalty. We disagree. An offense is not punishable with death in Nevada unless the State affirmatively seeks to impose the death penalty. Here, the state did not seek the death penalty. See NRS 175.552(4) (providing that when (1) the State has not sought the death penalty, (2) the court has found that a defendant is intellectually disabled, or (3) when the court has stricken the notice of intent to seek the death penalty, a convicted defendant is not subject to the death penalty); see also *Butler*, 120 Nev. at 893, 102 P.3d at 81 (explaining that NRS 175.151 “gives the discretion in noncapital cases to the trial court”). And here, Randolph’s offenses were not punishable by death when he was tried. Although Randolph was charged with two counts of murder, the State declined to seek the death penalty for the offenses. Therefore, we conclude the district court was not required to allow both of Randolph’s attorneys to give closing arguments. See *Kabew v. Eighth Jud. Dist. Ct.*, 140 Nev. 184, 186, 545 P.3d 1137, 1140 (2024) (“When the plain language is clear and unambiguous, we will give effect to the clear meaning and enforce the statute as written.” (citation modified)).

In the alternative, Randolph argues that the district court was required to limit the State to one prosecutor for both closing and rebuttal arguments. NRS 175.151 specifies that the district court “may, in its discretion, restrict the argument to one counsel on each side.” In *Butler*, we explained that the word “[m]ay,” as it is used in legislative enactments, is often construed as a permissive grant of authority.” 120 Nev. at 893, 102 P.3d at 81. We concluded that NRS 175.151 gives the district court discretion over the

number of attorneys who may give arguments on either side in noncapital cases. *Id.* Therefore, Randolph has not shown the district court abused its discretion by permitting different prosecutors to give the State's closing and rebuttal arguments.

The emergency motion was without merit

Randolph argues that he was entitled to an evidentiary hearing under NCJC Rule 2.15, based on the State's alleged misconduct. This rule governs Nevada judges' obligation to report or take appropriate action when they know, or have reason to know, a judge or attorney has committed an ethical violation. *Id.* Randolph fails to show how this ethical obligation entitled him to an evidentiary hearing during his criminal proceedings. *See Browning*, 120 Nev. at 361, 91 P.3d at 50. Thus, we conclude that the district court properly denied this motion.

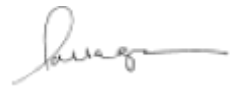
Cumulative error does not warrant reversal

Finally, Randolph argues that the cumulative effect of errors warrants relief. Because we do not recognize any of the errors alleged by Randolph, there are no errors to cumulate. *See Morgan v. State*, 134 Nev. 200, 201 n.1, 416 P.3d 212, 217 n.1 (2018). Thus, we

ORDER the judgment of the district court AFFIRMED.



Pickering, J.



Parraguirre, J.



Bell, J.

cc: Clark County District Attorney
Gaffney Law

Tierra Danielle Jones, District Judge
The Eighth Judicial District Court of the State of Nevada, in and for the
County of Clark, District Court Clerk