

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN LOPEZ AKA KEVIN JOSEPH
LOPEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40304

FILED

DEC 31 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. R. R.*
CHIEF DEPUTY CLERK

ORDER AFFIRMING IN PART AND REMANDING IN PART TO
CORRECT JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of robbery with the use of a deadly weapon. The district court sentenced appellant Kevin Lopez to serve two consecutive prison terms of 48-120 months; he was given credit for 171 days time served.

Lopez' sole contention is that the district court erred in denying in part his motion in limine. Lopez sought to exclude evidence of a letter he wrote to a female inmate wherein he confessed to, and exaggerated, his part in the robbery. A hearing on the matter was held outside the presence of the jury, and the district court allowed the State to introduce an excerpt from the letter into evidence. Lopez claims that "[t]he purpose of the letter was to secure a romantic liaison or correspondence. Given this context, the probative value of [the] statement is minimal."¹ Lopez argues that the district court, in violation of NRS

¹The following is the relevant excerpt from Lopez' letter that was the subject of the motion in limine: "Here in Las Vegas I got into a high speed chase, stabbed a cab driver, he was a sand-nigger so it's okay; carjacked him and that's it for the Las Vegas chapter."

48.035(1),² did not properly balance the probative value of the evidence against its prejudicial effect. We disagree with Lopez' contention.

District courts have considerable discretion in determining the relevance and admissibility of evidence.³ Accordingly, this court accords substantial weight to a district court's decision to admit or exclude evidence, and we will not reverse a district court's decision absent manifest error.⁴ In the instant case, Lopez sought to exclude statements made in two separate letters. After hearing the arguments of counsel, the district court granted Lopez' motion regarding one of the statements, and denied it as to the other. In finding one of the statements admissible, the district court held:

I think it's an admission of the defendant, I don't think it's unduly prejudicial. All evidence is prejudicial but the prejudice doesn't outweigh the probative value, it's relevant.

Therefore, we conclude that the district court properly exercised its discretion and balanced the probative value of the evidence against its prejudicial effect before deeming the admission in Lopez' letter admissible. We further conclude that the district court's determination was not manifest error, and that Lopez' contention is without merit.

Our review of the judgment of conviction, however, reveals a clerical error. The judgment of conviction states that Lopez was convicted

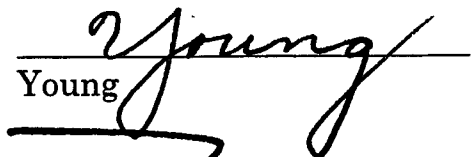
²NRS 48.035(1) states: "Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury."

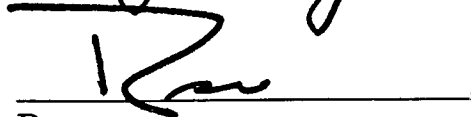
³See Sterling v. State, 108 Nev. 391, 395, 834 P.2d 400, 403 (1992).

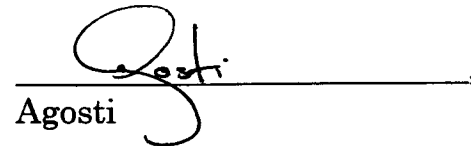
⁴Libby v. State, 115 Nev. 45, 52, 975 P.2d 833, 837 (1999) (citing Daly v. State, 99 Nev. 564, 567, 665 P.2d 798, 801 (1983)).

pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. Therefore, we conclude that this matter must be remanded to the district court for the limited purpose of entering a corrected judgment of conviction. Accordingly, we

ORDER the judgment of conviction AFFIRMED AND REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction as directed above.

 _____, C.J.
Young

 _____, J.
Rose

 _____, J.
Agosti

cc: Hon. Joseph T. Bonaventure, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk