

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARRY D. CANTRELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41746

FILED

DEC 23 2003

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of burglary while in possession of a deadly weapon, and one count of robbery with the use of a deadly weapon. The district court sentenced appellant to a prison term of 26 to 120 months for burglary, and to a consecutive term of 26 to 120 months for robbery, with an equal and consecutive term of 26 to 120 months for the use of a deadly weapon.

Appellant contends that the district court erred by denying his motion to suppress his confession. Specifically, appellant argues that his statement was inadmissible because he was not fully apprised of his right to have counsel present during questioning.¹


At the time of the questioning, appellant signed an advisement of rights form that stated, in part: "3. You have the right to the presence of an attorney. 4. If you cannot afford an attorney, one will be appointed before questioning." The district court found that this was an adequate statement of appellant's right to counsel. We agree.


¹See Miranda v. Arizona, 384 U.S. 436 (1966).

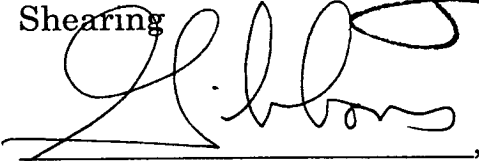
Appellant also argues that he did not validly waive his right to have counsel present. This court has previously held that a defendant validly waives his right to counsel when he is informed of his rights, indicates that he understands those rights, and then chooses to speak without requesting a lawyer.² In this case, appellant stated that he had read the advisement of rights form and that he understood his rights. We therefore conclude that appellant validly waived his right to have counsel present at questioning.

Having considered appellant's contention and concluded that the district court did not err by denying the motion to suppress, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Becker


_____, J.
Shearing


_____, J.
Gibbons

cc: Hon. Sally L. Loehrer, District Judge
Clark County Public Defender
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

²Allen v. State, 91 Nev. 568, 570, 540 P.2d 101, 103 (1975).