

IN THE SUPREME COURT OF THE STATE OF NEVADA

MONICA SOTELO,  
Appellant  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 41788

**FILED**

MAR 05 2004

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

ORDER AFFIRMING IN PART, REVERSING IN PART AND  
REMANDING

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of burglary while in possession of a firearm, one count of conspiracy to commit robbery, one count of robbery with the use of a deadly weapon, and one count of invasion of the home. The district court sentenced appellant: (1) for burglary, to a prison term of 24 to 84 months; (2) for conspiracy, to a concurrent prison term of 12 to 48 months; (3) for robbery, to a concurrent prison term of 24 to 84 months, with an equal and consecutive term for the use of a deadly weapon; and (4) for home invasion, to a concurrent prison term of 24 to 84 months.

Appellant first contends that the district court erred by allowing evidence of a prior misdemeanor conviction for furnishing false information to a police officer. Appellant's argument is based on NRS 50.095(1) which provides, in part, that the credibility of a witness may be attacked with evidence of conviction of a crime, but only if it was a felony.

However, NRS 50.085(3) provides, in part, that specific instances of conduct may be inquired into on cross-examination if they are relevant to truthfulness. Because the prior misdemeanor conviction was relevant to appellant's truthfulness, we conclude that it was admissible pursuant to NRS 50.085(3). We therefore conclude that the district court did not err by allowing the evidence.

Appellant next contends that the conviction for both home invasion and burglary was improper. The State argues that the convictions are not redundant because they satisfy the Blockburger test.<sup>1</sup> This court recently held, however, that even where multiple convictions may be permissible under the Blockburger test, if the gravamen of the two offenses is the same, the convictions are redundant.<sup>2</sup> The gravamen of both burglary and home invasion was that appellant forcibly and illegally entered the victim's home. We therefore conclude that the conviction for home invasion is redundant.

Based on the foregoing, we affirm appellant's convictions for burglary while in possession of a firearm, conspiracy to commit robbery,

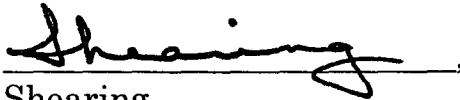
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<sup>1</sup>Blockburger v. United States, 284 U.S. 299, 304 (1932) (holding that a conviction for two offenses arising out of the same act or transaction is permissible if each offense requires proof of a fact which the other does not).


<sup>2</sup>Salazar v. State, 119 Nev. \_\_\_, \_\_\_, 70 P.3d 749, 751 (2003).

and robbery with the use of a deadly weapon. We reverse the conviction for invasion of the home and remand to the district court to amend the judgment of conviction accordingly.

It is so ORDERED.<sup>3</sup>

  
\_\_\_\_\_, C.J.  
Shearing

  
\_\_\_\_\_, J.  
Becker

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

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<sup>3</sup>Although this court has elected to file the appendix submitted, it is noted that it does not comply with the arrangement and form requirements of the Nevada Rules of Appellate Procedure. See NRAP 3C(e)(2); NRAP 30(b); NRAP 30(c); NRAP 32(a). Specifically, there is no cover, the documents are not bound, they are not in chronological order, there is no index, and not all the documents required by NRAP 30(b)(2) have been included. Counsel is cautioned that failure to comply with the requirements for appendices in the future may result in the appendix being returned, unfiled, to be correctly prepared. See NRAP 32(c). Failure to comply may also result in the imposition of sanctions by this court. NRAP 3C(n).

cc: Hon. Michael L. Douglas, District Judge  
Pike & Associates  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk