

IN THE SUPREME COURT OF THE STATE OF NEVADA

CASSIUS ROY GREATHOUSE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42467

FILED

MAY 12 2004

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 two counts of robbery with the use of a deadly weapon, two counts of conspiracy to commit robbery, and one count of possession of a short-barreled rifle or shotgun. The district court sentenced appellant: (1) for robbery, to two consecutive prison terms of 72 to 180 months, with equal and consecutive terms for the use of a deadly weapon; (2) for conspiracy, to two concurrent prison terms of 28 to 72 months; and (3) for possession of a short-barreled rifle or shotgun, to a concurrent prison term of 12 to 48 months.

Appellant's sole contention is that the district court abused its discretion by admitting prior bad act evidence regarding a robbery that appellant planned, but did not actually commit, approximately one month prior to the instant robberies. In particular, appellant contends that evidence of the prior act was too prejudicial.

NRS 48.045(1) provides that evidence of other wrongs cannot be admitted at trial solely for the purpose of proving that the defendant acted in a similar manner on a particular occasion. But NRS 48.045(2) provides that such evidence may be admitted for other purposes, "such as

proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Before admitting such evidence, the trial court must conduct a hearing on the record and determine (1) that the evidence is relevant to the crime charged; (2) that the other act is proven by clear and convincing evidence; and (3) that the probative value of the other act is not substantially outweighed by the danger of unfair prejudice.¹ On appeal, we will give great deference to the trial court's decision to admit or exclude evidence and will not reverse the trial court absent manifest error.²


Here, the trial court conducted a hearing outside the presence of the jury regarding the prior bad act evidence offered by the State. At the conclusion of the hearing, the trial court determined that the evidence was relevant as proof of appellant's identity, that the State had proven the other acts by clear and convincing evidence, and that the probative value of the other acts was not substantially outweighed by the danger of unfair prejudice. Based on our review of the record, we conclude that the district court did not commit manifest error in admitting the evidence that appellant previously planned a robbery with the exact modus operandi, including the same disguises, used in the robberies of which he was convicted.

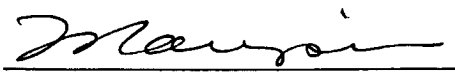
¹Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064-65 (1997).

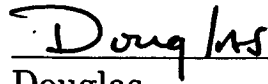
²See Bletcher v. State, 111 Nev. 1477, 1480, 907 P.2d 978, 980 (1995); Petrocelli v. State, 101 Nev. 46, 52, 692 P.2d 503, 508 (1985), modified on other grounds by Sonner v. State, 112 Nev. 1328, 930 P.2d 707 (1996).

Having considered appellant's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.³


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Steven P. Elliott, District Judge
John J. Kadlic
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk
Cassius Roy Greathouse

³Because appellant is represented by counsel in this matter, we decline to grant appellant permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to appellant unfiled all proper person documents appellant has submitted to this court in this matter.