

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL HARTLEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 42666

**FILED**

JUN 25 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 one count of battery constituting domestic violence, third offense, and one count of coercion. Eighth Judicial District Court, Clark County; Ronald D. Parraguirre, Judge. The district court sentenced appellant to a prison term of 12 to 48 months for battery, and to a consecutive prison term of 12 to 48 months for coercion.

Appellant contends that the district court abused its discretion by admitting prior bad act evidence. Specifically, appellant argues that the district court should not have admitted evidence that he had been convicted of battering the victim on 2 prior occasions.


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

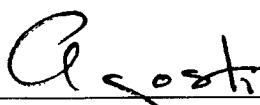
danger of unfair prejudice.<sup>1</sup> On appeal, we will give great deference to the trial court's decision to admit or exclude evidence and will not reverse the trial court absent manifest error.<sup>2</sup>


Here, the trial court conducted a hearing prior to trial 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 the appellant's motive, that the State had proven the other acts by clear and convincing evidence, and that the probative value of the other act evidence 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 of appellant's prior batteries of the victim.

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

ORDER the judgment of conviction AFFIRMED.

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

  
\_\_\_\_\_, J.  
Agosti

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

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

<sup>2</sup>See 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).

cc: Hon. Ronald D. Parraguirre, District Judge  
Gregory L. Denué  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk