

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM STANLEY BLETCHER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 68411

**FILED**

**DEC 29 2015**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of battery with use of a deadly weapon constituting domestic violence; assault with a deadly weapon, burglary while in possession of a deadly weapon, false imprisonment with use of a deadly weapon, coercion, battery constituting domestic violence – strangulation, and possession of firearm by ex-felon. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Appellant William Bletcher was involved in a domestic dispute with his ex-girlfriend, the victim, in which he punched and strangled her and held a shotgun to her neck. At trial, the district court did not permit Bletcher to cross-examine the victim about subsequent, unrelated instances in which she allegedly lied to police. Also during the victim's cross-examination, the district court permitted the State to ask the victim if she had previously witnessed Bletcher in possession of the gun used in the instant case. As the parties are familiar with the additional facts relevant to this appeal, we do not recount them further except as necessary for our disposition.

15-901695

First, Bletcher contends that the district court erred by refusing to allow him to cross-examine the victim regarding subsequent, unrelated incidents with the police. We disagree. A party may impeach a witness's credibility on cross-examination by inquiring into collateral matters that pertain to the witness's truthfulness or untruthfulness, provided no extrinsic evidence is used. *Ford v. State*, 122 Nev. 796, 806, 138 P.3d 500, 507 (2006).

Bletcher argues that the incidents were probative of the victim's truthfulness because she allegedly lied to the police. The district court did not allow cross-examination on this point because, based on the police reports, it was not clear that the victim actually lied to police. Therefore, Bletcher failed to establish that the acts alleged were relevant to impeach the victim. Further, the district court was correct in its ruling that Bletcher's proposed inquiry on cross-examination would be misleading.

"It is within the district court's sound discretion to admit or exclude evidence." *Means v. State*, 120 Nev. 1001, 1008, 103 P.3d 25, 29 (2004). We conclude that here the district court did not abuse its discretion, as these specific instances of conduct were not relevant to the victim's truthfulness and, therefore, were inadmissible. See NRS 50.085(3) (providing that "[s]pecific instances of the conduct of a witness, . . . other than a conviction of crime, . . . may, [], if relevant to truthfulness, be inquired into on cross-examination of the witness") (emphasis added). Furthermore, the district court may properly exclude evidence, even if relevant, where, as here, the probative value is "substantially outweighed by the danger of unfair prejudice, confusion of the issues, or of misleading

the jury.” *Fields v. State*, 125 Nev. 776, 784, 220 P.3d 724, 729 (2009); see also NRS 48.035(1).

Next, Bletcher argues that the district court erroneously admitted evidence of an uncharged prior bad act without first holding a *Petrocelli*<sup>1</sup> hearing. Bletcher challenges the victim’s testimony that she had previously seen Bletcher with the same shotgun he used to press into her neck on the date in question. Bletcher contends this testimony constitutes admission of a prior bad act because he is a felon and is therefore prohibited from possessing a firearm. We disagree.

Under these facts, the district court did not abuse its discretion in admitting testimony regarding the victim’s familiarity of the gun used without conducting a *Petrocelli* hearing as this evidence did not implicate a prior bad act. Specifically, the defendant’s mere possession of a firearm on a prior occasion is not a crime, and the jury did not know of Bletcher’s criminal status.<sup>2</sup> See *Salgado v. State*, 114 Nev. 1039, 1042, 968 P.2d 324, 326 (1998) (clarifying the requirement of a *Petrocelli* hearing); *Colon v. State*, 113 Nev. 484, 938 P.2d 714 (1997) (determining a *Petrocelli* hearing was not required where the evidence in question did not implicate prior bad acts on the defendant’s part). Additionally, the testimony was admissible to show that the victim recognized the shotgun Bletcher used to press into her neck. See *Bigpond v. State*, 128 Nev. 108, 114, 270 P.3d 1244, 1248-49 (2012) (noting prior bad acts are inadmissible to prove

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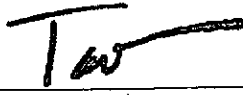
<sup>1</sup>*Petrocelli v. State*, 101 Nev. 46, 692 P.2d 503 (1985).

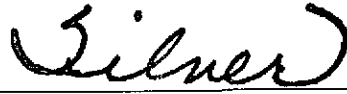
<sup>2</sup>The ex-felon in possession of a firearm count was bifurcated from the other counts. However, the jury learned of Bletcher’s criminal record later in the initial phase of trial through Bletcher’s own admission that he had previously been convicted of second degree murder.

propensity, but may be admissible for other relevant, nonpropensity purposes). Therefore, the district court did not err by allowing the victim's testimony that she had previously seen the defendant in possession of the shotgun. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Carolyn Ellsworth, District Judge  
Law Office of Monique A. McNeill  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk