

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD G. "RON" BUSH, AN  
INDIVIDUAL; TYCHE ACQUISITIONS  
GROUP, INC., A NEVADA  
CORPORATION; RENAISSANCE  
MASTERS, LLC, A NEVADA LIMITED  
LIABILITY COMPANY; CLASSIC FINE  
ART, LLC, A NEVADA LIMITED  
LIABILITY COMPANY; AND TYCHE  
ART INTERNATIONAL, INC., A  
NEVADA CORPORATION,

Appellants,

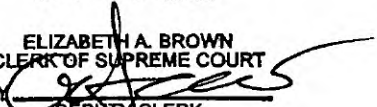
vs.

STEVEN B. CRYSTAL, TRUSTEE OF  
THE BARBARA L. CRYSTAL  
DECEDENT TRUST; STEVEN B.  
CRYSTAL, INDIVIDUALLY;  
AUTOMATED CASH SYSTEMS ("ACS"),  
A NEVADA CORPORATION; AND  
AUTOMATED CASHLESS SYSTEMS, A  
NEVADA CORPORATION,  
Respondents.

No. 76280

**FILED**

JAN 03 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a final judgment following a jury verdict in a breach of contract action. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

*Factual Background*

In 2013, respondents Steven Crystal and the Barbara Crystal Decedent Trust (collectively "Crystal") loaned a total of \$5,150,000 to appellants Ronald Bush and Tyche Acquisitions Group (collectively "Bush") for the purchase of stock in Automated Cash Systems, Inc. (ACS), a company in the process of developing a gambling device to be used in casinos. Crystal's loan was secured by Bush's shares of ACS stock, any

proceeds that Bush might receive from a then-pending personal injury lawsuit, and all art owned or later acquired by Bush. Crystal subsequently lent Bush an additional \$3,050,000 for various fine art investments. Later, as part of a restructuring agreement that would permit ACS to license its gaming device in New Jersey, Bush transferred 41.25 million shares of ACS stock to Crystal to hold as collateral. Eventually, Bush defaulted on his loans from Crystal. Additionally, Bush lost his personal injury lawsuit and was unable to finalize any potential sales of the art investments.

Crystal filed suit against Bush to collect on the debts owed. Crystal also obtained a writ of possession and seized various pieces of artwork owned by Bush. The case proceeded to a jury trial, where Crystal presented evidence from a business valuation expert, Michelle Salazar, valuing ACS at \$197,000. The jury returned a verdict in favor of Crystal on all claims, awarding Crystal damages in excess of \$16 million. The jury found that Bush was entitled to an offset of \$36,937.50 for the ACS shares that he assigned to Crystal during the New Jersey restructuring. No offset was made for the art that had been seized by Crystal. The district court entered its judgment on the jury's verdict.

Bush appeals, asking this court to vacate the jury's verdict, arguing that he was entitled to a greater offset for the ACS stock and an offset for the artwork seized by Crystal. He first claims that Salazar's valuation methodology was so unreliable that this court should vacate the jury verdict and grant a new trial. He next claims that the district court abused its discretion in excluding evidence that would show (1) the ACS stock Bush assigned to Crystal was severely undervalued at trial, and (2) the art seized by Crystal had value which should have been considered in the offset.

*The district court properly admitted expert witness Michelle Salazar's testimony regarding the methodology selection*

Bush argues that Salazar's methodology for valuing ACS was improper and unreliable. Bush asserts that the Net Asset Value (NAV) approach used by Salazar is generally only relevant to value real estate holding companies and investment companies, of which ACS was neither. He offers alternative business valuation approaches, including the income methodology and market approach.

But Bush did not object to the validity of the NAV methodology before or at trial, and he therefore waived any argument that the NAV methodology was improper or unreliable. *See Old Aztec Mine v. Brown*, 97 Nev. 49,52. 623 P.2d. 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal.").

Moreover, to the extent Bush challenges the reliability of Salazar's valuation, we conclude sufficient evidence supports the valuation and thus the offset granted to Bush by the jury. *See Allstate Ins. Co. v. Miller*, 125 Nev. 300, 308, 212 P.3d 318, 324 (2009) ("In reviewing a jury verdict, this court upholds a jury verdict if there is substantial evidence to support it, but will overturn it if it was clearly wrong from all the evidence presented." (internal quotation marks and alteration omitted)). Salazar provided detailed testimony about why she used the NAV approach and how she arrived at the valuation of \$197,000 for ACS. Bush did not offer an expert witness of his own to value the business. Bush had the opportunity to cross-examine Salazar at trial, and it was the jury's responsibility to weigh witness credibility. *See Quintero v. McDonald*, 116 Nev. 1181, 1184, 14 P.3d 522, 524 (2000) ("The credibility of witnesses and the weight to be given their testimony is within the sole province of the trier of fact.").

*The district court did not err by excluding evidence to impeach Salazar*

Bush next claims that the district court abused its discretion in excluding evidence that would have impeached Salazar, including (1) testimony and a business plan from Bush's expert witness, Scott McCallum, (2) a letter from Salazar valuing ACS at \$150 million based on the numbers in McCallum's business plan, and (3) testimony related to ACS business projections given by Bush's witness, Steve Warner. This court reviews a decision to exclude evidence for an abuse of discretion and "will not interfere with the district court's exercise of its discretion absent a showing of palpable abuse." *Frei v. Goodsell*, 129 Nev. 403, 408-09, 305 P.3d 70, 73 (2013). It is an abuse of discretion to refuse to allow evidence that would impeach an expert witness when the facts are sharply disputed, the matter is tried to the jury, and the evidence has a proper foundation. *McCourt v. J.C. Penney Co.*, 103 Nev. 101, 103, 734 P.2d 696, 698 (1987).

We conclude that the evidence that Bush argues was improperly excluded lacked proper foundation, and therefore its exclusion did not rise to an abuse of discretion by the district court. The district court found that McCallum's business plan was nothing more than "conjecture, assumption and generalization," and was simply a regurgitation of information provided by Bush, not any sort of expert analysis. Salazar's letter was subsequently excluded because its valuation was based solely on numbers from the inadmissible business plan and was therefore also inadmissible. And, while Bush claims that Salazar's letter should have been admitted as a prior inconsistent statement, her letter was not inconsistent with her trial testimony. Rather, Salazar simply made two separate valuations based on two different data sets, one of which was later found to be without foundation.

Evidence of figures given by Bush's witness, Steve Warner, was also properly excluded for lack of foundation. While Bush argues that the numbers could have been used in a hypothetical question to Salazar regarding how those numbers would affect her valuation, we have previously held that hypotheticals can be posed only when they are sufficiently supported by evidence, even when that evidence must ultimately be weighed by the jury. *Van Fleet v. O'Neil*, 44 Nev. 216, 224-25, 192 P. 384, 386 (1920). The district court determined that Warner's testimony was so speculative as to be irrelevant, and Warner himself stated during examination, "we don't really have any real numbers that we can put down." Therefore, the district court did not abuse its discretion in precluding Bush from posing a hypothetical based on those numbers, even for purposes of impeaching the expert witness.

*The district court did not err in excluding Bush from presenting evidence regarding the purported value of ACS stock*

Bush argues that as a majority owner of ACS (51%), or alternatively as a stockholder, he was qualified to testify as to the value of the ACS shares. A party to a lawsuit may testify as to the value of their personal or real property. *Dugan v. Gotsopoulos*, 117 Nev. 285, 288, 22 P.3d 205, 207 (2001) ("A party to a lawsuit may testify as to the value of her personal or real property when that value is an issue in the case, and expert testimony is not required."). However, Bush's testimony was not relevant to the stock's current valuation. Bush's proposed testimony consisted of future projections of ACS which had been provided to him by third parties, and which the court determined were speculative. Bush also stated that while he had been originally involved in the running of ACS early on, after the first few months he was not involved in the day-to-day operations and claimed that it was "not my business." Any testimony by Bush as to the

value of ACS would have been based on speculative, third-party opinions and was therefore not relevant in determining the value of the stock.

Additionally, Bush argues that the district court abused its discretion by excluding the testimony of Johnnessco Rodriguez, Bush's friend whom Bush claims offered to loan him \$25 million with the understanding that Rodriguez could eventually convert that value to ACS stock. Bush has waived this issue by failing to object below. *See Old Aztec Mine*, 97 Nev. at 52, 623 P.2d. at 983 (1981). Furthermore, even had he properly preserved the issue, the court did not abuse its discretion in excluding Rodriguez's testimony because Rodriguez's involvement with ACS and knowledge about the company was so limited as to be irrelevant. Rodriguez never actually made a loan for the purchase of the stock, nor did he have access to the \$25 million needed to make such a loan. Additionally, there was never any indication that Rodriguez performed an independent evaluation of ACS; rather, he appeared to have arrived at the \$25 million price entirely through Bush's self-interested suggestion. It was therefore not an abuse of the district court's discretion to exclude Rodriguez's testimony regarding the value of the business.

*The district court did not abuse its discretion by prohibiting Bush from testifying about the value of art pieces seized by Crystal*


Bush argues that the district court abused its discretion in determining that the art seized by Crystal must be valued by an expert witness. Bush claims that as the owner of the art he should have been permitted to offer testimony regarding the value of the art for the purpose of receiving an offset.


During discovery, Crystal requested the value of the art via interrogatory and Bush deliberately declined to provide the information, even after Crystal filed a subsequent motion to compel the valuation of the

art. The district court granted Crystal's motion to exclude any valuation of the artwork for the purpose of increasing Bush's offset amount, finding that such valuation required expert testimony and Bush had not designated any such expert. We conclude the district court did not abuse its discretion in requiring expert testimony for the rare artwork, which included an alleged work by Michelangelo. *See, e.g., United States v. Kayne*, 90 F.3d 7, 11-12 (1st Cir. 1996) (stating that it is well within the court's discretion to require expert testimony for the valuation of specialized items like rare coins); *Maryland Cas. Co. v. Therm-O-Disc*, 137 F.3d 780, 786 (4th Cir. 1998) (requiring expert testimony to value unusual items like rare books or art); *Lakewood Eng'g & Mfg. Co. v. Quinn*, 604 A.2d 535, 543 (Md. Ct. Spec. App. 1992) (requiring expert testimony to determine value of artwork and first edition books). Bush is not a fine art expert, nor does he claim to have any specialized knowledge about the value of the art seized. In fact, when asked about the art, he testified that he didn't know anything about it except that it "was pretty." Bush therefore has not demonstrated that the district court abused its discretion in requiring expert testimony to value the art.

We therefore

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Herndon

  
\_\_\_\_\_, J.  
Lee

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Connie J. Steinheimer, District Judge  
Silver State Law LLC  
Woodburn & Wedge  
Washoe District Court Clerk