

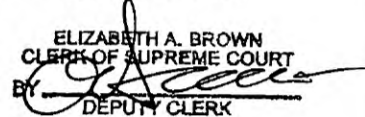
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NICHOLLUS JACKSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84248-COA

FILED

DEC 12 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Nichollus Jackson appeals from a judgment of conviction entered pursuant to a jury verdict of first-degree murder with the use of a deadly weapon, robbery with the use of a deadly weapon, four counts of burglary, four counts of attempted fraudulent use of a credit or debit card, and fraudulent use of a credit or debit card. Eighth Judicial District Court, Clark County; Cristina D. Silva, Judge.

First, Jackson argues the district court erred by declining to permit him to question the victim's mother concerning the victim's prison sentence for a conviction of driving under the influence of alcohol. Jackson asserts that information concerning the victim's prison sentence was relevant to show that the victim was under the influence of alcohol, out of control, and had knowledge of the use of knives because those weapons are commonly used in prison. Jackson contends that information should have been considered admissible character evidence.

"NRS 48.045(1)(b) permits the accused to present evidence of the character of a crime victim regardless of the accused's knowledge of the victim's character when it tends to prove that the victim was the likely aggressor." *Petty v. State*, 116 Nev. 321, 325, 997 P.2d 800, 802 (2000).

“[P]roof of character may be established by testimony as to reputation or in the form of an opinion.” *Id.* at 325-26, 997 P.2d at 802 (internal quotation marks omitted). “The character of the victim cannot be established by proof of specific acts.” *Burgeon v. State*, 102 Nev. 43, 46, 714 P.2d 576, 578 (1986). However, “[w]hen it is necessary to show the state of mind of the accused at the time of the commission of the offense for the purpose of establishing self-defense, specific acts which tend to show that the deceased was a violent and dangerous person may be admitted, provided that the specific acts of violence of the deceased were known to the accused or had been communicated to him.” *Id.* at 45-46, 714 P.2d at 578. “District courts are vested with considerable discretion in determining the relevance and admissibility of evidence.” *Archanian v. State*, 122 Nev. 1019, 1029, 145 P.3d 1008, 1016 (2006).

The victim’s mother testified that the victim had fallen on hard times. Jackson sought to question her concerning that issue and the State objected. The parties discussed the issue at a bench conference with the district court, and Jackson stated that he wanted to question her concerning the victim’s incarceration for driving under the influence in an effort to show that the victim was an alcoholic and was the aggressor in this matter. The district court decided to allow Jackson to question the victim’s mother as to whether the victim had an issue with alcohol and whether that issue caused him hard times. But the district court precluded Jackson from questioning her concerning the victim’s conviction and sentence unless Jackson had knowledge of those issues prior to the incident that led to the victim’s death in this matter.

The record reveals that Jackson did not seek introduction of the testimony concerning the victim’s reputation or an opinion concerning the

victim's character. Instead, Jackson sought to introduce the victim's specific acts in an effort to show that the victim was violent and dangerous, but Jackson does not demonstrate that he had knowledge of the victim's conviction for driving under the influence and resulting prison sentence prior to the incident. In light of the record and Jackson's acknowledgment that he was not aware of the victim's conviction and sentence prior to the incident at issue in this matter, we conclude that Jackson fails to demonstrate that the district court abused its discretion by declining to permit him to question the victim's mother concerning the victim's prior conviction and sentence. Therefore, we conclude that Jackson is not entitled to relief based on this claim.

Second, Jackson argues that the district court erred by permitting a member of the jury to ask a detective if he had seen self-defense cases involving persons being stabbed in the back. Jackson argues that the question was improper because the detective should not have been permitted to offer expert opinion testimony that implicated the ultimate issue of this case.

"A witness may not give a direct opinion on the defendant's guilt or innocence in a criminal case." *Collins v. State*, 133 Nev. 717, 724, 405 P.3d 657, 664 (2017). However, "[t]estimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact." NRS 50.295. Moreover, pursuant to NRS 50.265, lay witnesses may offer opinions or inferences that are "rationally based on the perception of the witness[ ] and [h]elpful to a clear understanding of the testimony of the witness or the determination of a fact in issue." And "[i]f scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact

in issue, a witness qualified as an expert by special knowledge, skill, experience, training or education may testify to matters within the scope of such knowledge.” NRS 50.275. The practice of juror questioning is committed to the sound discretion of the district court, subject to certain procedural safeguards, *Knipes v. State*, 124 Nev. 927, 931, 192 P.3d 1178, 1181 (2008) (extending *Flores v. State*, 114 Nev. 910, 913, 965 P.2d 901, 902-03 (1998)), and the admission of opinion testimony is reviewed for an abuse of discretion, *Watson v. State*, 94 Nev. 261, 264, 578 P.2d 753, 756 (1978).

The victim had been stabbed in the back. A juror submitted a question to the detective asking if it was normal to see a person stabbed in the back in a self-defense case. The district court reviewed the question and decided it was appropriate to rephrase the question to ask the detective to answer it based on his own training and experience. The detective testified at trial concerning his extensive experience and stated that he has worked on over 200 homicide cases. The district court asked the question of the detective, and the detective responded that it was not common in his experience to see a person stabbed in the back during the use of self-defense.

In light of the circumstances in this matter, we conclude that the district court did not abuse its discretion by permitting the juror question concerning the detective’s experience with self-defense cases. The detective’s testimony was rationally based on his perception and was helpful to a determination of a fact at issue in this matter. Moreover, Jackson did not demonstrate that the detective’s testimony was improper merely because it implicated the issue of whether he was justified in killing the victim in self-defense. In addition, the detective’s testimony concerning his experience with self-defense cases fell within the scope of his knowledge, experience, and training as a homicide detective, and therefore, was not

outside of the scope of permissible expert testimony. *See Abbott v. State*, 122 Nev. 715, 730, 138 P.3d 462, 472 (2006) (approving a trial court's decision to permit a detective to testify as an expert witness in light of the detective's training and experience). Therefore, we conclude that Jackson is not entitled to relief based on this claim.

Third, Jackson argues that the district court erred by permitting a detective to provide a narrative of video recordings depicting Jackson and the events surrounding the incident at issue. Jackson contends that the narration improperly displaced the evidentiary value of the video recordings and was admitted in contravention of NRS 52.235.

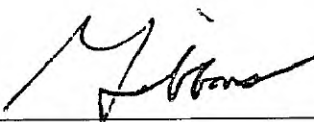
NRS 52.235 states that “[t]o prove the content of a writing, recording or photograph, the original writing, recording or photograph is required, except as otherwise provided in this title.” We review a district court's admission of testimony and evidence for an abuse of discretion. *Archanian*, 122 Nev. at 1029, 145 P.3d at 1016.


During the detective's testimony, a video recording was played for the jury. The detective testified concerning the events depicted in the recording, and he identified people, places, and objects that were depicted in the video recording. The detective testified that he was able to identify Jackson in the recording because he had actually interacted with Jackson in person. And the video recording depicted Jackson interacting with the victim in this matter. During a break in the testimony, Jackson objected to the detective's narration of the video recording, and the district court overruled the objection. The district court found that the detective's testimony concerning the video recording provided appropriate explanation concerning the events depicted in the video.

The record demonstrates that the trial court admitted the relevant video recording into evidence and the detective's testimony did not violate NRS 52.235. Based on the record, we conclude that Jackson fails to demonstrate that the district court abused its discretion by allowing the detective to narrate the video. *See Burnside v. State*, 131 Nev. 371, 388, 352 P.3d 627, 639 (2015) ("The narration of the surveillance videos assisted the jury in making sense of the images depicted in the videos."). Therefore, we conclude that Jackson is not entitled to relief based on this claim.

Fourth, Jackson asserts that the detective's narration of the video violated his due process rights. However, Jackson does not present relevant authority and cogent argument concerning his assertion that admission of the narration testimony violated his right to due process. "It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court." *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987). Because Jackson did not present relevant authority and cogent argument concerning his due-process claim, we decline to address it. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Chief Judge, Eighth Judicial District Court  
Eighth Judicial District Court, Department 9  
Law Office of Michael H. Schwarz  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk