

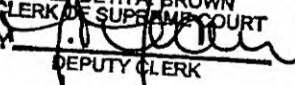
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CINQUE ZARIFF GRIM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85882-COA

FILED

OCT 19 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Cinque Zariff Grim appeals from a judgment of conviction, pursuant to a jury verdict, of high-level possession of controlled substance, two counts of trafficking in controlled substance, and ownership or possession of firearm by prohibited person. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

In May 2022, Las Vegas Metropolitan Police Department officers were conducting surveillance on an apartment unit because they received a tip about possible narcotics activity.¹ The officers observed Grim, who was a probationer at the time, exit the unit and searched him. During the search, the officer found keys to the apartment unit on his person. The officers obtained a search warrant for the unit and entered to search the unit.

During the search, the officers found a hamper with several bags in it in the bedroom. The bags contained methamphetamine (229.6 grams), combined heroin and fentanyl (54.904 grams), and crack cocaine (193 grams). One bag also contained two firearms. The officers discovered that one of the firearms was a stolen weapon. The officers also found a wallet containing Grim's social security card and several articles of clothing

¹We recount the facts only as necessary for our disposition.

that appeared to be Grim's size in the bedroom. Grim was charged with four counts: high-level possession of a controlled substance, two counts of trafficking in a controlled substance, and ownership or possession of a firearm by a prohibited person.

A bifurcated three-day trial was held in September 2022. The three drug related counts were tried first, and the firearm charge was tried separately.² During the trial, several police officers testified. Despite being cautioned by the district attorney not to mention that one of the firearms was stolen, one of the officers testified that he believed one of the firearms was reported stolen. Once the statement was made, Grim's codefendant immediately requested a bench conference. The jury was removed, and the district court admonished the officer. Grim's codefendant orally moved for a mistrial on the basis that inadmissible bad act evidence had been presented to the jury, and that the evidence was prejudicial, especially because a member of the jury had submitted in writing a proposed question that asked if the firearms found in the apartment were stolen.³ Grim joined the motion. After both sides presented their arguments to the district court, the court denied the motion for a mistrial because the testimony was not sufficiently prejudicial. The jury was then brought in; the officer's statement about the reportedly stolen firearm was stricken from the record, and the jury was instructed to disregard that portion of the testimony.

²This was done to prevent the jury from hearing that Grim was a convicted felon until absolutely necessary.

³The district court disallowed this proposed question, so the jury did not hear that one of the firearms may have been reported stolen until the officer volunteered that information.

At the conclusion of the bifurcated trial, the jury returned a guilty verdict on all three drug related counts, and subsequently, a guilty verdict on the firearm charge. Grim now appeals.

Grim argues that the district court abused its discretion by denying his motion for a mistrial because the officer's testimony was improper bad act evidence of an uncharged crime and cast Grim in a negative light that likely prejudiced the jury against him. The State responds that the district court properly followed Nevada law by striking the testimony and instructing the jury to disregard the testimony.

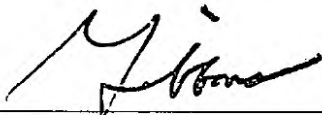
We review a district court's decision to deny a motion for a mistrial for an abuse of discretion. *See Randolph v. State*, 117 Nev. 970, 981, 36 P.3d 424, 431 (2001). A district court abuses its discretion when it makes an "arbitrary or capricious" decision or "exceeds the bounds of law or reason." *Jackson v. State*, 117 Nev. 116, 120, 17 P.3d 998, 1000 (2001). A witness's spontaneous reference to inadmissible material, which was not solicited by the State, "can be cured by an immediate admonishment directing the jury to disregard the statement." *Ledbetter v. State*, 122 Nev. 252, 264-65, 129 P.3d 671, 680 (2006) (quoting *Carter v. State*, 121 Nev. 759, 770, 121 P.3d 592, 599 (2005)) (concluding that any prejudice flowing from a reference to inadmissible material was adequately cured by the district court's prompt admonishment of the jury to disregard the statement). We presume that the jury follows the court's instruction. *See Summers v. State*, 122 Nev. 1326, 1333, 148 P.3d 778, 783 (2006).

Once the police officer made the unsolicited statement, Grim's codefendant requested a bench conference, and the jury was removed. The officer was admonished outside of the jury's presence. And the district court found that the testimony was not sufficiently prejudicial to warrant a

mistrial. Additionally, once the jury was brought back into the courtroom, the district court immediately instructed the jury to disregard the improper portion of the officer's testimony and struck that testimony from the record. The officer did not make any other improper statements. We presume that the jury followed the instruction that it was given, which creates a presumption that no prejudice occurred since the jury would have disregarded the potentially prejudicial testimony. *See id.* Therefore, we conclude that the district court did not abuse its discretion by denying the motion for a mistrial.

Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Joseph Hardy, Jr., District Judge
Law Office of Benjamin Nadig, Chtd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk