


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THOMAS MORRIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86525-COA

**FILED**

MAR 18 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Thomas Morris appeals pursuant to NRAP 4(c) from a judgment of conviction, entered pursuant to a no contest plea, of racially motivated assault with the use of a deadly weapon and gross misdemeanor abuse of an older person. Ninth Judicial District Court, Douglas County; Nathan Tod Young, Judge.

Morris argues the district court erred by failing to invoke the exclusionary rule at the beginning of the sentencing hearing and/or by failing to honor counsel's invocation of the exclusionary rule during the sentencing hearing. NRS 50.155, also known as the exclusionary rule, is contained within title 4 of the Nevada Revised Statutes and does not apply to sentencing proceedings. *See* NRS 47.020(3)(c); *see also* *Witter v. State*, 112 Nev. 908, 916-17, 921 P.2d 886, 892-93 (1996) (holding the exclusionary rule does not apply to sentencing proceedings, even in capital cases), *abrogated on other grounds by* *Nunnery v. State*, 127 Nev. 749, 776 n.12, 263 P.3d 235, 253 n.12 (2011).<sup>1</sup> Therefore, we conclude the district court

<sup>1</sup>To the extent Morris contends NRS 50.155 applies to his sentencing hearing because his case is factually distinguishable from *Pray v. State*, 114 Nev. 455, 959 P.2d 530 (1998), Morris fails to demonstrate that NRS 50.155

did not err by failing to invoke the exclusionary rule or by failing to honor counsel's invocation of the exclusionary rule at sentencing. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Nathan Tod Young, District Judge  
SDS Chartered, LLC  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk

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required the district court to invoke the exclusionary rule or to honor his counsel's invocation of the exclusionary rule at the sentencing hearing. See *Pray*, 114 Nev. at 458, 959 P.2d at 531-32 (citing *Witter* for the proposition that "the exclusionary rule does not apply to witnesses who testify only during the penalty phase of the trial").