

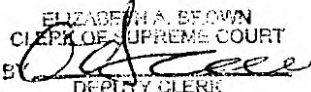
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOEL ALCARAZ-GONZALEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86773-COA

FILED

APR 05 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Joel Alcaraz-Gonzalez appeals from a judgment of conviction, entered pursuant to a jury verdict, of felony eluding a police officer; trafficking in a schedule I or II controlled substance, 400 grams or more; carrying a concealed firearm; two counts of possession of a schedule I or II controlled substance, less than 14 grams; and felon in possession of a firearm. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

Alcaraz-Gonzalez argues the evidence presented at trial was insufficient to support his conviction of felony eluding a police officer. When reviewing a challenge to the sufficiency of the evidence, we review the evidence in the light most favorable to the prosecution and determine whether “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); accord *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). A person is guilty of felony eluding a police officer if they “flee from a police officer who is signaling the individual to stop [their] vehicle” and

“operate [their] vehicle in such a manner that it endangers or is likely to endanger other persons or property.” *Nelson v. State*, 123 Nev. 534, 542, 170 P.3d 517, 523 (2007); *see also* NRS 484B.550.

The State presented evidence that on April 27, 2022, Alcaraz-Gonzalez left the Peppermill Casino in a white Kia. Shortly thereafter, Sparks Police Department Officer T. Radley attempted to stop Alcaraz-Gonzalez while driving a marked police vehicle by turning on his vehicle’s lights. Officer Radley followed Alcaraz-Gonzalez as Alcaraz-Gonzalez pulled into a car wash station, and he turned on his vehicle’s sirens after Alcaraz-Gonzalez went through the car wash bay. Alcaraz-Gonzalez accelerated out of the parking lot and onto the street. Officer Radley testified that he did not pursue Alcaraz-Gonzalez due to concerns for public safety.

The State also presented evidence that Officer B. Sheffield was surveilling the white Kia when the attempted stop occurred and that Alcaraz-Gonzalez nearly collided with Officer Sheffield’s vehicle as he accelerated out onto the street. Officer Sheffield testified that Alcaraz-Gonzalez would have struck his vehicle had he not stopped, he watched Alcaraz-Gonzalez drive away through his side mirrors and over his shoulder, and he saw Alcaraz-Gonzalez go into oncoming traffic and continue to accelerate as he fled. Officer Sheffield further testified that Alcaraz-Gonzalez was travelling southbound on the street and that another vehicle travelling northbound had to slow down and allow Alcaraz-Gonzalez to navigate back into the southbound lane to avoid a collision. Officer Sheffield described Alcaraz-Gonzalez’s driving as reckless and testified that he expected Alcaraz-Gonzalez to wreck his vehicle. A couple hours later,

Alcaraz-Gonzalez returned to the Peppermill Casino, where he was arrested.

Given this evidence, a rational jury could have found beyond a reasonable doubt that Alcaraz-Gonzalez fled from a police officer who was signaling him to stop his vehicle and that Alcaraz-Gonzalez operated his vehicle in a manner that endangered or was likely to endanger the lives or property of others. See NRS 484B.550. Therefore, we conclude that Alcaraz-Gonzalez is not entitled to relief on this claim.

Alcaraz-Gonzalez also argues the district court abused its discretion by denying his motion to sever the charge of felony eluding a police officer from the remaining charges. “Two or more offenses may be charged in the same . . . information in a separate count for each offense if the offenses charged” are “[b]ased on two or more acts or transactions connected together or constituting parts of a common scheme or plan.” NRS 173.115(1). Charges are “connected together” if “evidence of either charge would be admissible for a relevant, nonpropensity purpose in a separate trial for the other charge.” *Rimer v. State*, 131 Nev. 307, 322, 351 P.3d 697, 708-09 (2015). This court reviews a district court’s decision to join or sever charges for an abuse of discretion, and “[w]e base our review on the facts as they appeared at the time of the district court’s decision.” *Id.* at 320, 351 P.3d at 707.

After review, we conclude that the charges were connected together because evidence of the remaining charges would have been admissible for a relevant, nonpropensity purpose in a separate trial on the felony eluding charge. The facts as they appeared before the district court indicated that the police surveilled Alcaraz-Gonzalez’s vehicle and

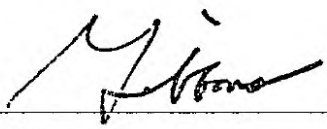
attempted to conduct a traffic stop in part because they believed Alcaraz-Gonzalez was involved in narcotics trafficking. Evidence that Alcaraz-Gonzalez possessed large quantities of controlled substances and a firearm only hours after the attempted traffic stop would be relevant to show Alcaraz-Gonzalez's potential motive for eluding a police officer. *See* NRS 48.015; NRS 48.045(2).


However, “[e]ven when charges have been properly joined, some form of relief may be necessary to avert unfair prejudice to the defendant.” *Rimer*, 131 Nev. at 323, 351 P.3d at 709; *see also* NRS 174.165(1). “[T]his requires more than a mere showing that severance may improve his or her chances for acquittal.” *Rimer*, 131 Nev. at 323, 351 P.3d at 709. Rather, severance is only required if joinder was “manifestly prejudicial” such that the trial was fundamentally unfair so as to violate due process. *Id.* at 323-24, 351 P.3d at 709.

Alcaraz-Gonzalez contends there was a real risk that the jury did not analyze whether the State had proven the charge of felony eluding a police officer and instead assumed that he was a “bad person” who deserved to be punished for fleeing the police because he was later caught carrying a trafficking quantity of methamphetamine. The Nevada Supreme Court has recognized that this type of prejudice “may occur when charges in a weak case have been combined with charges in a strong case to help bolster the former.” *Id.* at 323, 351 P.3d at 709. As previously discussed, the State presented sufficient evidence to convict Alcaraz-Gonzalez of felony eluding a police officer independent of the fact that Alcaraz-Gonzalez was subsequently found to possess controlled substances. Indeed, our review of the record shows that all of the charges were strong and none of the charges

were so weak as to suggest a due process violation. Therefore, we conclude the district court did not abuse its discretion by declining to sever the charge of felony eluding a police officer from the remaining charges. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Barry L. Breslow, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk