

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRAD A. MEHN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86638

FILED

APR 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

ORDER OF AFFIRMANCE

BY

DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of first-degree kidnapping with the use of a deadly weapon and one count of open murder with the use of a deadly weapon. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

Brad Mehn and two others were charged with kidnapping and murdering Roy Jagers near Pahrump, Nevada. A preliminary hearing was held in the Pahrump Justice Court. During the hearing, witness Michael Ward testified that he saw the body and two people leave the crime scene. At the request of Mehn's two co-defendants, the justice of the peace cut the hearing short, finding the State had presented sufficient evidence to establish probable cause to bind the case over to the Fifth Judicial District Court. Notably, although he failed to object, Mehn was not given an opportunity to testify or present witnesses at the preliminary hearing.

Mehn was arraigned and pleaded not guilty. Mehn filed a pre-trial petition for writ of habeas corpus challenging the sufficiency of the evidence to support the bind-over of his kidnapping charge to the district court. The district court denied the petition.

Prior to Mehn's trial, the State filed a motion in limine to use the preliminary hearing testimony of Ward, arguing Ward was unavailable. The district court ordered the State to continue searching for Ward until

the time of trial. At trial, Ward did not testify, and his preliminary hearing testimony was never read into the record. Also at trial, the State admitted the autopsy report into evidence. After the two-week trial, a jury found Mehn guilty of first-degree kidnapping with the use of a deadly weapon and first-degree murder with the use of a deadly weapon. Mehn was sentenced to life in prison without the possibility of parole.

Mehn raises three issues on appeal. First, Mehn argues that the Justice of the Peace erred in binding him over on the kidnapping charge and the district court erred in failing to grant his pretrial writ petition challenging the bind-over. Specifically, Mehn argues he was in Nye County when Jagers was abducted from Las Vegas and the Justice of the Peace prematurely concluded the preliminary hearing before the State finished presenting its case and without allowing the defendants the opportunity to testify.

We are concerned that the Justice of the Peace bound over the case to the district court without allowing the prosecution to fully present its case and without inquiring if any of the three defendants wanted to testify in violation of their rights under NRS 171.196(5). Mehn's brief on this point, however, fails to adequately address the issue. The brief consists primarily of quotations from the record without any citations to caselaw and without any meaningful analysis of the issue. We decline to consider the premature bind-over because Mehn failed to cogently argue it. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987).

Mehn additionally argues the kidnapping charge should not have been bound over to the district court because the evidence failed to show he participated in the initial restraining and transporting of Jagers to Nye County. We conclude that this issue is moot. Mehn failed to seek

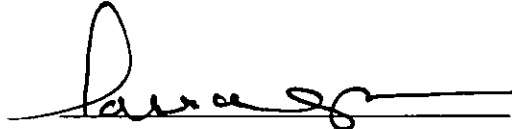
redress from this court after the district court denied his pre-trial petition for writ of habeas corpus. Mehn was then convicted at trial. “The preliminary hearing is not a trial and the issue of the defendant’s guilt or innocence is not a matter before the court.” *State v. Just. Ct. of Las Vegas Twp.*, 112 Nev. 803, 806, 919 P.2d 401, 402 (1996). The purpose of preliminary hearing is to ensure that the state has sufficient evidence to proceed to trial and to avoid unnecessarily subjecting a person to a trial when the state lacks probable cause to move forward. *See id.* The probable cause standard for a preliminary hearing is a lower standard of proof than the beyond-a-reasonable doubt standard, which must be met at trial. *Coleman v. Burnett*, 477 F.2d 1187, 1202 (D.C. Cir. 1973). “Probable cause signifies evidence sufficient to cause a person . . . to conscientiously entertain a reasonable belief of the accused’s guilt.” *Id.* In contrast, [p]roof beyond a reasonable doubt . . . connotes evidence strong enough to create an abiding conviction of guilt to a moral certainty.” *Id.* Because the jury ultimately concluded the State proved the charges beyond-a-reasonable-doubt, whether a lower level of proof was met at the justice court is moot.

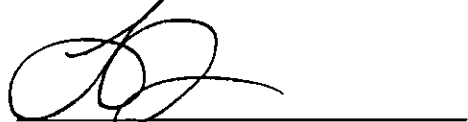
Second, Mehn argues that the district court improperly granted the State’s motion in limine to use transcripts from the preliminary hearing of Ward’s testimony at trial. As noted, the State requested permission to use the transcript due to difficulties locating Mr. Ward. Ultimately, however, Mr. Ward did not testify nor did the State admit the preliminary hearing transcript. Mehn’s argument thus lacks merit because the testimony was never admitted at trial and therefore could not have impacted its outcome. *See Knipes v. State*, 124 Nev. 927, 935, 192 P.3d 1178, 1183 (2008) (any error which does not affect substantial rights must be disregarded) (citing NRS 178.598).

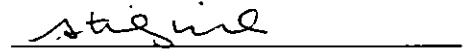
Finally, Mehn challenges the admission of the autopsy report as more probative than prejudicial given the technical nature of the report and the likelihood that the report would cause confusion. We conclude the district court did not abuse its discretion in allowing the autopsy report to be admitted. We review a district court's decision to admit or exclude evidence for an abuse of discretion. *McLellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). Evidence from an autopsy report in a murder case is typically not unduly prejudicial because the report helps assist a medical examiner in testifying about the victims' cause of death and the manner in which the victim received the injuries. *See Libby v. State*, 109 Nev. 905, 910, 859 P.2d 1050, 1054 (1993) (*vacated on other grounds by Libby v. Nevada*, 516 U.S. 1037 (1996)). Photos or physical documentation which depicts "exactly what the expert describe[s] [can be] helpful in assisting the jury in understanding the nature of the murders and the circumstances of the crime." *Id.* at 911, 859 P.2d at 1054. Here, where the State admitted the autopsy report under the business exception record to the hearsay rule, the defense raised no additional hearsay objections, and the doctor who

prepared the report testified at trial, we conclude the district court did not abuse its discretion in admitting the report. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Parraguirre, J.


Bell, J.


Stiglich, J.

cc: Hon. Kimberly A. Wanker, District Judge
David H. Neely, III
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk