

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH EDMOND GOAD,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

No. 79977

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RESPONDENT'S ANSWERING BRIEF

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RESPONDENT'S ANSWERING BRIEF

I. STATEMENT OF THE FACTS

Appellant Ralph Edmond Goad (“Goad”) and the victim, Theodore Gibson, were friends who lived in separate apartments at the Park Manor Apartments. Joint Appendix (“JA”) Volume 2, p. 236. Goad and Mr. Gibson both received social security payments and used the same payee service to pay their rent. 2JA 238-239. Near the end of 2018, the payee service used by Goad and Mr. Gibson closed. 5JA 779-780. Mr. Gibson transferred to a new payee service while Goad did not. 6JA 824, 832. As a result, Goad’s rent was not paid, and he received a five-day notice of eviction on January 11, 2019. 1JA 17. The eviction was completed and Goad was locked out of his apartment on January 30, 2019. 4JA 688. The

last payment Goad received from his payee service was for \$253.90 on November 5, 2018. 5JA 792.

Mr. Gibson's body was found in his apartment on February 13, 2019. 2JA 245. Mr. Gibson suffered "a total of 250 stab wounds, which included 151 stab wounds of the face, head and neck, 76 stab wounds of the back in the right and left sides of the torso, one stab wound of the left thigh, 17 stab wounds of the right upper extremity, including the hand, the wrist, and the forearm, and five stab wounds of the left hand." 6JA 1017. Mr. Gibson died of exsanguination - he bled to death. 6JA 1023.

Mr. Gibson's wallet was found open on the floor with its contents strewn about. 2JA 245-246. It was entirely empty with no cash inside. *Id.*, 5JA 13. Scissors and a knife with red staining were located and collected from inside Mr. Gibson's apartment. 6JA 894-896. Mr. Gibson's DNA was located on the blades of both the knife and the scissors. 6JA 966-968. Goad's DNA was found on the handle of the scissors. 6JA 967. Goad's sweater and pants, found later in his own apartment, were also tested and his DNA was found on the collar of the sweater and on the pants. 5JA 748, 751-752, 6JA 965, 970. Mr. Gibson's blood was found on the sweater and pants. 6JA 964-965, 969-970.

On the morning of Thursday, August 8, 2019, the fourth day of trial, Goad's counsel, Mr. Jay Slocum, advised the court that Goad was not responsive to he or his co-counsel, Ms. Jennifer Mayhew. 6JA 813, 817¹. However, Goad was apparently responsive to deputies from the Washoe County Sheriff's Office and was only unresponsive to his attorneys. *Id.* Mr. Slocum told the court that the issue may be one of "authority," as Goad was "willing to respond to" the deputies. *Id.* Mr. Slocum advised the court that he was comfortable proceeding as long as Goad acknowledged to the court that he understood why he was present and what was happening. 6JA 818.

The court noted that while Mr. Slocum was speaking, Goad nodded affirmatively when Mr. Slocum reiterated Goad's desire to proceed with the trial and "raised his hand when he heard you [Mr. Slocum] say Mr. Goad wants to go forward." 6JA 819. The court asked Goad if he was having trouble speaking and Goad nodded his head affirmatively. *Id.* Goad continued to answer the court's questions by nodding affirmatively to indicate that he knew who the judge was, that he was able to write, and that

¹ The date on the cover sheet of the transcript for this day of trial reads August 8, 2019. 6JA 813. The first page of transcription reports the date as Wednesday, August 8, 2019. 6JA 816. The State believes that "Wednesday" is an error. August 8, 2019, was a Thursday. Moreover, the following transcript correctly records the date as Friday, August 9, 2019. 7JA 1046.

he had been medically cleared by the infirmary at the jail that morning. 6JA 819-820. Washoe County Sheriff's Office deputies also answered "yes" that Goad had been medically cleared that morning. 5JA 820. When specifically asked to raise his hand if he wanted the trial to proceed that morning, Goad "rais[ed] his hand immediately." *Id.*

Upon retiring for the first recess of the morning, the court made the following comments: "I'll just note for the record that I have observed during this first session of trial that Mr. Goad is drinking water, there have been nominal interactions with counsel. He stands with us as appropriate, just waved at me, and appears to be participating in some measure in this proceeding." 6JA 873-874.

Later, before the noon recess, the court canvassed Goad about his right to testify. 6JA 941-948. Shortly after starting the canvass, the court observed that "I'll note in our record that Mr. Goad is looking at me and appears engaged in my words. Do you agree with that? He's shaking his head yes and raising his hand indicating so." 6JA 942. Goad nodded his head in response to the court's question whether he understood that the decision to testify was his alone. 6JA 943. The court stated that it would make accommodations as needed to allow Goad to testify if he chose to and commented to Goad that "[y]ou're shaking your head yes that you

understand. You're shrugging your shoulders and even looking up at the ceiling a little bit in a form of eye communication, now you're smiling at me." *Id.* The court told Goad that he would be subject to cross-examination by the State's attorney and noted that "Mr. Goad looked at the State's attorney when I referenced him and even raised his hand in acknowledgement to the State's attorney." *Id.*

After explaining cross-examination to Goad, the court asked if he understood. 6JA 944. The record notes that Goad responded by nodding his head. *Id.* The court commented that "[y]ou are emphatically shaking your head yes." *Id.* Goad continued to nod his head in the affirmative to the court's questions. 6JA 944-945.

At the conclusion of testimony that day, Mr. Slocum told the court that he had noticed a marked improvement in Goad's condition and ability to communicate with his counsel. 6JA 1039. Specifically, Mr. Slocum advised the court that it appeared that his medication took some time to fully "activate" and that it hadn't fully activated until the afternoon. *Id.* Mr. Slocum told the court that "by this afternoon when I've spoken with him, he's communicating with us, we can have meaningful discussions about the evidence and his decision, the questions that he asked were relevant and helpful in terms of establishing whether or not he wanted to testify, so I feel

very confident in his decision and that he understands both the pros and the cons of testifying.” *Id.* The court followed this up by observing that Goad “appears to be interactive, and interactive with counsel and observant of the proceedings in ways that do not concern me.” *Id.*

II. STATEMENT OF THE ISSUES

- A. Whether the district court abused its discretion in proceeding with the trial when Goad indicated that he wanted to proceed with the trial despite being unable or unwilling to speak on the fourth day of trial?
- B. Whether the district court committed manifest error in allowing the State to present evidence of Goad’s motive to commit murder?
- C. Whether the district court abused its discretion in admitting photographs of a bloody shirt and jacket to demonstrate that they matched the victim’s wounds and explain how the pathologist determined how many and what types of weapons were used?

III. ARGUMENT

- A. The district court did not abuse its discretion by proceeding with the trial when Goad indicated that he wanted to do so and was provided with materials to write so that he could assist his attorneys.

- i. Standard of Review

“We review a district court’s refusal to order a competency evaluation for an abuse of discretion.” Lipsitz v. State, 135 Nev. 131, 134-135, 442 P.2d 138, 142 (2019) *citing* Olivares v. State, 124 Nev. 1142, 1148, 195 P.3d 864, 868 (2008).

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ii. Discussion

An incompetent defendant may not be prosecuted. “An incompetent defendant is one who lacks ‘the present ability to understand either the nature of the criminal charges against him or the nature and purpose of the court proceedings, or is not able to aid and assist his counsel in the defense at any time during the proceedings with a reasonable degree of rational understanding.’” *Id citing Olivares*, 124 Nev. at 1147, 195 P.3d at 868, NRS 178.400(a)-(c). A trial court is required to suspend proceedings if a doubt as to competency arises and “[w]hether such a doubt is raised is within the discretion of the trial court...” *Id citing* NRS 178.405(1), Melchor-Gloria v. State, 99 Nev. 174, 180, 660 P.2d 109, 113 (1983). When there is substantial evidence of a doubt as to competency, the trial court is required to conduct a competency hearing. *Id citing Olivares*, 124 Nev. at 1148, 195 P.3d at 868. “The trial court’s sole function in such circumstances is to decide whether there is any evidence which, assuming its truth, raises a reasonable doubt about the defendant’s competency.” Melchor-Gloria, 99 Nev. at 180, 660 P.2d at 113 *citing Moore v. United States*, 464 F.2d 663, 666 (9th Cir. 1972).

Goad argues that because he was apparently unable to speak on the morning of the fourth day of trial, the court should have stopped the trial and conducted competency proceedings. On appeal, Goad claims that

because he refused to interact with his counsel, “counsel stated that he was not comfortable proceeding, and asked the district court to canvass Mr. Goad regarding his understanding of the proceedings.” Opening Brief, p. 14. Goad contends that the court effectively expressed its intention to have the trial, one way or the other, and that it refused to conduct competency proceedings despite the circumstances demanding otherwise.

The record clearly shows that the court *did* conduct a canvass of Goad as requested by Mr. Slocum. 6JA 819-820. During the canvass, Goad nodded his head affirmatively indicating comprehension and agreement when appropriate and in response to the court’s questions about whether Goad wished to proceed with the trial. *Id.* Goad’s argument also ignores that Goad had been medically cleared prior to leaving the detention facility that morning, that he indicated that he could write, and that he raised his hand “immediately” when asked if he wanted the trial to proceed. *Id.* This was exactly the sort of information that Mr. Slocum sought when he expressed his “discomfort” to the court about proceeding that morning. 6JA 818 (“So what I would be interested in this morning is just the Court to ask Mr. Goad if he understands why we’re here and what we’re doing. And if he could acknowledge that to the Court I would feel comfortable going forward.”).

The procedure followed by the trial court in this case is similar to that approved of in Lipsitz. In Lipsitz, the Nevada Supreme Court found that the trial court had not erred when it “conducted an independent assessment of Lipsitz’s competency, canvassing him and his counsel, who assured the district court that Lipsitz was competent and requested to proceed to trial.” 135 Nev. at 135, 442 P.3d at 142. In arriving at its conclusion that the defendant was competent and trial could proceed, the district court in Lipsitz “relied on defense counsel's assurances, its own interactions with Lipsitz, and his responses to the court’s canvass...” *Id.* The Lipsitz opinion noted that although Lipsitz was “obstinate” his behavior “did not show a lack of understanding or inability to aid in his defense” but instead “the record shows that Lipsitz was unwilling to aid in his defense.” *Id.*

There is no evidence that anyone thought that Goad was incapable of comprehending the proceedings or interacting with his counsel. That the communication with his counsel had to occur in writing rather than verbally does not mean that Goad was unable to assist counsel. It certainly does not mean that Goad was incompetent to stand trial. Moreover, at the first recess that morning, the court noted that Goad had been interacting with his counsel and was otherwise behaving appropriately. 6JA 873-874.

The trial court discharged its duty in determining that there was no evidence which, if true, would cast a reasonable doubt as to Goad's competency.

As there is not substantial evidence to support a doubt as to Goad's competency, the district court did not err in failing to order a competency evaluation. In fact, the court went beyond merely dispelling any doubts as to Goad's competency and ensured that Goad actually understood the proceedings and was capable and willing to proceed. Therefore, the district court did not err where Goad's counsel indicated he would be comfortable if Goad acknowledged he understood the proceedings, Goad did acknowledge that he understood the proceedings, Goad indicated that he wished to go forward with the trial, and he was observed actually interacting with counsel.

B. The district court did not err in allowing the State to present evidence of Goad's financial motive to commit murder.

i. Standard of Review

The trial court's decision to admit res gestae evidence "is to be given great deference and will not be reversed absent manifest error." Bletcher v. State, 111 Nev. 1477, 1480, 907 P.2d 978, 980 (1995). "A manifest abuse of discretion is a clearly erroneous interpretation of the law or a clearly

erroneous application of a law or rule.” Jones v. Eighth Judicial Dist. Court, 130 Nev. 493, 501, 330 P.3d 475, 481 (2014) (cleaned up).²

ii. Discussion

The district court correctly concluded that evidence of Goad’s financial situation and subsequent eviction was not bad act evidence, but instead was admissible as evidence of motive. 2JA 265. In concluding that the evidence was admissible, the trial court determined found that it fit under NRS 48.035(3) as res gestae evidence. *Id.* NRS 48.035(3) provides:

Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be excluded, but at the request of an interested party, a cautionary instruction shall be given explaining the reason for its admission.

“The State may present a full and accurate account of the crime, and such evidence is admissible even if it implicates the defendant in the commission of other uncharged acts.” Bellon v. State, 121 Nev. 436, 444, 117 P.3d 176, 181 (2005) *citing* Bletcher, *supra*.

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² “Cleaned up” is used to indicate that internal quotation marks, alterations, and citations have been omitted from quotations. *See, e.g.* Redlin v. United States, 921 F.3d 1133, 1140 (9th Cir. 2019); Lu v. United States, 921 F.3d 850, 860 (9th Cir. 2019); United States v. Reyes, 866 F.3d 316, 321 (5th Cir. 2017).

The prosecution has “the right to offer evidence tending to prove motive, malice or intent.” Cutler v. State, 93 Nev. 329, 333, 566 P.2d 809, 811 (1977). “All relevant evidence is admissible,” subject to certain exceptions, and “relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.” NRS 48.025, NRS 48.015.³ As a result of the court’s ruling, the State was permitted to present evidence of Goad and Mr. Gibson’s respective financial situations in the months and weeks leading up to the murder for the purpose of demonstrating Goad’s desperate financial straits.

Goad claims the financial motive evidence was not relevant for several reasons: first, because there was no evidence that Goad was not actually receiving his social security benefit and second, because there was some evidence that he was the beneficiary of some inheritance from his mother’s will and he intended to go collect that money. Neither of these arguments goes to the relevance of the State’s evidence. The first argument suggests that there was a failing in the evidence that would allow a jury to conclude that Goad was in fact receiving his social security benefit, not that

³ Goad urges this Court to analyze his use of a payee service as a prior bad act. Goad cites no authority for the premise that utilizing a payee service fits any definition of a “bad act.”

it is not relevant. The second provides an alternate version of Goad's financial prospects. Any of this information would have created a factual dispute to be decided by a jury. However, that evidence was never presented to the jury.

Goad claims that there was evidence that he continued to receive social security benefits himself directly from the Social Security Administration. Opening Brief, p. 20. However, the evidence presented was decidedly less certain than Goad suggests. In fact, Rebecca Korn, the owner of Goad and Mr. Gibson's former payee service, testified she did not know what happened to Goad's money but that "[a]s far as I know, he requested his own to Social Security." 2JA 221. When pressed for further information, Ms. Korn said she did not learn this information directly from Goad and she might have seen the information in a letter that her business received from the Social Security Administration. *Id.* However, Ms. Korn did not know if she had actually received such a letter reflecting Goad's request to receive payments directly. 2JA 221-222. Later, Ms. Korn stated her belief that Goad had not actually requested to be his own payee based upon his eviction. 2JA 231. In sum, Ms. Korn could not recall how or if she had received any information that Goad was receiving his social security benefits directly and did not know if she had received a letter reflecting that

Goad was receiving the benefits directly. That is a far cry from Goad's affirmative assertion in his Opening Brief that there was evidence that he was receiving his social security benefits directly after November 2018 and, thus, did not have any financial motive for his crime.

Moreover, there was affirmative evidence in the form of Reno Police Department Detective Dave Nevils' testimony that Goad had not been receiving his social security benefits for some period of time prior to his arrival in Sacramento in February 2019. After Goad fell down and was hospitalized, an agency called STEPS assisted Goad in accessing his benefits and securing housing in Sacramento. 2JA 244. At the time that STEPS became involved in Goad's life, approximately \$1,900 in unclaimed social security benefits had accumulated. *Id.* Thus, Goad's claim on appeal is not only unsupported by the record, it is belied by circumstantial evidence that suggests he was unable to access his social security benefits after he received his last check from Ms. Korn's office in November 2018.

Even assuming that Goad had been able to present some evidence that he was actually collecting his social security benefits from November through February, it would do nothing to diminish the relevance of the State's evidence. At best, it would have set up a factual dispute for the jury to decide. As it happened though, Goad put forth no defense and attempted

to patch together bits and pieces of testimony to suggest that Goad was not actually concerned about money at the time he murdered Mr. Gibson.

Goad also claims there was evidence that he had alternative sources of income and was not reliant on his social security benefits in January 2019. Goad's mother's will was attached as an exhibit to a motion filed by defense counsel. 1JA 73-83. A Petition for Probate was filed on February 1, 2017, after Goad's mother passed away on November 3, 2016. 1JA 68-71. The Petition for Probate does not show the exact amount that Goad was to receive, when he was to receive it, or his intentions to travel to Sacramento to pick it up.

The other citation in support of his claim that he was going to Sacramento to pick up his inheritance refers to evidentiary hearing testimony from an employee of the Park Manor Apartments that Goad appeared not to be concerned about being locked out of his apartment for non-payment of his rent because he was going to Sacramento. 2JA 234-240. At no point in that testimony did the witness, Victoria Juarez, testify that Goad had informed her he was not concerned about being locked out of his apartment because he was going to collect his inheritance. Instead, Ms. Juarez testified that Goad appeared not to understand that he needed to get a new payee. *Id.* Specifically, Ms. Juarez testified that she asked

Goad “why he hadn’t gotten a payee because Ted [Gibson] got it, because they were friends. He said why didn’t Ted [Gibson] tell me.” 2JA 236.

At that same evidentiary hearing, Detective Nevils testified that Goad said during an interview that he had a brother in Sacramento he wanted to contact, and he wanted to contact a lawyer about possibly collecting an inheritance. 2JA 243. At best, that evidence suggests that Goad believed he had an inheritance he could collect but did not have a firm plan to do so when he left for Sacramento. Again, this evidence might provide an alternative description of Goad’s financial prospects at the time he went to Sacramento, but it does not render the State’s evidence irrelevant.

Finally, Goad claims that because the State’s contention was that Mr. Gibson was murdered on or about January 22, 2019, Goad would not have had the motivation to kill him because he was not locked out of his own apartment until January 30, 2019. Opening Brief, p. 21. This argument does not render the State’s theory of a financial motive for the murder irrelevant and it does not render the evidence showing the financial motive irrelevant. It ignores the fact that Goad was served with a five-day notice of eviction on January 11, 2019, more than a week before the State’s proposed date of the homicide. It also ignores the fact that Goad was \$5 short on his rent in December 2018 and that he was delinquent on his January rent on

January 11, 2019. 1JA 14-15. Most importantly, it ignores Goad's own statement to Detective Nevils that he was evicted because his last payment from his payee service was in November in the amount of \$249.50 and his rent had not been paid for December 2018 or January 2019. 2JA 242-243. Although the entire eviction process was not complete until the end of January when Goad was finally locked out of his apartment, the evidence demonstrated that he was aware he was going to be evicted much earlier than that. Thus, the State's evidence of Goad's financial situation was relevant to showing that he had a financial need at the time he committed the murder.

Finally, Goad makes the absurd claim that because the State's evidence painted him as "a low income person who relied upon a payee service, rather than a personal checking account, and that he was unable to pay his own rent when that payee service closed" the jury was invited "to conclude that Mr. Goad was the 'type' of person likely to commit alleged crime, rather than convict him pursuant to specific evidence presented." Opening Brief, p. 22. It is entirely unclear to the State how evidence that someone who receives their social security benefits through a payee service would invite the conclusion that such a person is the "type" who would viciously stab his good friend 250 times with a pair of scissors and a knife.

Being poor, receiving government benefits, or utilizing a payee service to manage those benefits is not the type of evidence that would lead any reasonable person to conclude that such a person would also be prone to extreme levels of violence. The State's evidence of Goad's financial situation was extremely probative of his overall lack of financial resources and is not substantially outweighed by any potential prejudice. Therefore, the district court did not commit a manifest abuse of discretion by allowing the State to present the full picture of the circumstances that led up to the murder.

C. The district court did not err in allowing the State to present a photograph depicting the victim's t-shirt and jacket to identify the weapons used to kill Mr. Gibson.

i. Standard of Review

The Court reviews a decision to admit photographs for an abuse of discretion. Harris v. State, 134 Nev. 877, 879, 432 P.3d 207, 210 (2018) *citing* West v. State, 119 Nev. 410, 420, 75 P.3d 808, 815 (2003).

ii. Discussion

On appeal, Goad complains that the trial court improperly allowed the jury to see two overly prejudicial photos: photographs of Mr. Gibson's jacket and t-shirt soaked with blood and depicting "defects." The State, at the pre-trial motions hearing, explained that the pathologist would use these photographs to show that the "defects" or "holes" in Mr. Gibson's t-

shirt corresponded to stab wounds on his body while also showing Goad's malice in stabbing the victim in the back through his clothes and demonstrating the shape of the weapon used. 2JA 188.

The Harris ruling, noting that "photographs of a victim's injuries tend to be highly probative and thus are frequently deemed admissible in criminal cases despite their graphic content" cited "1 Christopher B. Mueller & Laird C. Kirkpatrick, Federal Evidence § 4:18 (4th ed. 2018) ('Photographs have long been used in criminal cases to put before juries the image of dead victims ... [to] show cause of death, identity of the victim, position of the body, *the nature and relationship of the wounds*, and the appearance of the scene.')." 134 Nev. at 880, 432 P.3d at 210 (emphasis added). The Harris Court further held that while this premise is generally true, photographs are "subject to the balancing test set out in NRS 48.035(1), which precludes the admission of evidence when its probative value is substantially outweighed by the danger of unfair prejudice." 134 Nev. at 880, 432 P.3d at 210-211. Unfair prejudice flows from photographs when they are so graphic that they "inflame the passions of a reasonable juror, consciously or subconsciously tempting him or her to evaluate the evidence based on emotion rather than reason...." 134 Nev. at 880-881,

432 P.3d at 211 *citing* Old Chief v. United States, 519 U.S. 172, 180, 117 S.Ct. 644 (1997).

At trial, the pathologist, Dr. Katherine Callahan, testified that when examining a body with stab wounds, it is important to closely examine the wounds to help identify what kind of weapon may have been used. 6JA 1020-1021. Dr. Callahan testified that the holes in Mr. Gibson's jacket "all correspond to the stab wounds...." 6JA 1022. She also identified "a lot of these defects" in a photograph of Mr. Gibson's t-shirt and noted that "[t]hese split-like defects correspond to stab wounds." *Id.* Dr. Callahan identified and described a number of stab wounds in various locations on Mr. Gibson's body, including "the left side of his body," "the right side of his chest," "his back," and "the back and the sides of his torso." 6JA 1020, 1021, 1022. In other words, Dr. Callahan pointed out a large number of stab wounds in areas that were covered by Mr. Gibson's jacket and t-shirt.

Dr. Callahan used Exhibit 15, the photograph of Mr. Gibson's t-shirt to describe the shape of the stab wounds as having "tapered or sharp end[s] and the squared off or blunt ends." 6JA 1024, 8JA 1133. Dr. Callahan used the shape of the defects in Mr. Gibson's t-shirt to explain that the instrument used "has a single sharp end, and the other end is not sharp, which we can see with some knives." 6JA 1024-1025, 8JA 1133. Dr.

Callahan identified other defects in the shirt that suggested scissors were also used to stab Mr. Gibson. *Id.*

Dr. Callahan utilized the photographs of Mr. Gibson's jacket and t-shirt to do far more than say "only that the 'defects' in the jacket and shirt corresponded to Mr. Gibson's wounds." Opening Brief, p. 24. As the State charged Goad with killing Mr. Gibson with "a knife, scissors, or other sharp force instrument," this testimony was highly probative in showing how Dr. Callahan was able to determine what type of stabbing instrument was responsible for Mr. Gibson's various injuries, which corresponded with the weapons that were recovered from the scene. 6JA 894-896. The photographs of the t-shirt and jacket were far less graphic than their counterparts showing the stab wounds to Mr. Gibson's body, that Goad does not challenge on appeal. They also served an important evidentiary purpose to allow Dr. Callahan to opine that Mr. Gibson had been stabbed by two different types of weapons, which corresponded to weapons recovered from inside Mr. Gibson's apartment.

D. Even if evidence was improperly admitted, there is overwhelming evidence of Goad's guilt.

Finally, even if any evidence was improperly admitted, any error was harmless in light of the other overwhelming evidence of Goad's guilt. See Bellon v. State, 121 Nev. at 445, 117 P.3d at 181 ("We review the erroneous

admission of evidence under NRS 48.035(3) for harmless error.”);

Richmond v. State, 118 Nev. 924, 934, 59 P.3d 1249, 1255 (2002); Coffman v. State, 93 Nev. 32, 34, 559 P.2d 828, 829 (1977).

The evidence presented at trial demonstrated that Goad and Mr. Gibson were the only two persons seen on video surveillance entering and exiting Mr. Gibson’s apartment from January 17 through February 13, 2019. 4JA 597-598. Mr. Gibson was last seen entering his apartment on January 18, 2019. 4JA 598. A calendar in Mr. Gibson’s apartment had every day up to January 22 crossed through. 4JA 591.

Goad was captured on surveillance video entering and exiting Mr. Gibson’s apartment “constantly” between January 18 and January 22. After January 22, Goad entered Mr. Gibson’s apartment at later times of the day than he had previously been seen on surveillance recordings. 4JA 614-622. Prior to January 22, Goad would sometimes knock and sometimes not prior to entering Mr. Gibson’s apartment. *Id.* After January 22, Goad was the only person observed on surveillance video entering or exiting Mr. Gibson’s apartment and he did not knock or hesitate prior to entering. *Id.* On the morning of January 22, Goad was recorded entering Mr. Gibson’s apartment numerous times throughout the day, including in the afternoon. 4JA 614-617.

On January 22, Goad was seen wearing a sweater into Mr. Gibson's apartment that was later recovered in Goad's apartment with Mr. Gibson's blood on it, along with a pair of Goad's pants with Mr. Gibson's blood on them. 4JA 616, 5JA 748, 751-752, 6JA 965, 970.

Mr. Gibson was stabbed repeatedly with a knife and a pair of scissors. 6JA 1024-1025. A pair of scissors recovered from Mr. Gibson's apartment had his blood on the blades and Goad's DNA on the handle. 6JA 966-968.

All of the surveillance evidence showed that Goad was the only person who went into and out of Mr. Gibson's apartment after Mr. Gibson was last seen alive. Mr. Gibson's blood was found on Goad's clothing and on the murder weapons. Goad's DNA was found on the handle of a pair of scissors that were used to kill Mr. Gibson. Even without the financial information, the evidence clearly points to Goad as Mr. Gibson's killer.

When the financial information is included, it is even more clear that Goad was the killer and he did it for a financial motive. Goad did not realize that he needed to change his payee service after Ms. Korn closed down her business in November 2018. Goad's social security benefits continued to accrue until they were tapped by the STEPS program in Sacramento in February 2019. Mr. Gibson's wallet was removed from his pants and found empty when his body was located. Based upon all of that

evidence, a reasonable juror could easily conclude that Goad was desperate for cash when he learned on January 11 that he was going to be locked out of his apartment at the end of the month. In the meantime, he continued to visit his friend Mr. Gibson and he was the only other person seen entering or exiting Mr. Gibson's apartment after January 18. Goad's behavior in entering Mr. Gibson's apartment changed significantly around January 22 - he entered more regularly, at different and later times, and he never knocked on the door. Goad knew that he did not have to ask permission to enter Mr. Gibson's apartment because he was lying dead inside of 250 stab wounds. Whether or not the jury was inflamed by viewing a photograph of Mr. Gibson's blood-soaked t-shirt, the evidence only allowed for one conclusion: Goad viciously and repeatedly stabbed Mr. Gibson with a knife and a pair of scissors.

IV. CONCLUSION

The district court dispelled any concerns about Goad's competence when he apparently lost the ability to speak in the middle of his trial. Goad and his attorney both indicated they wished to proceed with the trial and Goad was able to interact with his attorneys even though he could not speak. The district court also properly allowed the State to present *res gestae* evidence in the form of Goad's deteriorating financial situation in the months leading

up to Mr. Gibson's murder. The court also properly allowed the State to introduce photographs of Mr. Gibson's clothing to allow Dr. Callahan to testify about the weapons used to kill him. Finally, the evidence of Goad's guilt is overwhelming and, thus, any evidentiary error is harmless. For all of those reasons, Goad's conviction should be affirmed.

DATED: June 8, 2020.

CHRISTOPHER J. HICKS
DISTRICT ATTORNEY

By: Kevin Naughton
Appellate Deputy

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2013 in Georgia 14.

2. I further certify that this brief complies with the page limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(c), it does not exceed 30 pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in

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the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED: June 8, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on June 8, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Kathryn Reynolds, Esq.

/s/ Tatyana Kazantseva
TATYANA KAZANTSEVA