

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH EDMOND GOAD,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

_____ /

**Appeal from a Judgment of Conviction in Case CR19-0999
The Second Judicial District Court of the State of Nevada
Honorable David Hardy, District Judge**

APPELLANT'S OPENING BRIEF

JOHN L. ARRASCADA
Washoe County Public Defender
Nevada State Bar No. 4517
KATHRYN REYNOLDS
Deputy Public Defender
Nevada State Bar No. 10955
350 South Center Street, 5th Floor
Reno, Nevada 89501

Attorneys for Appellant

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Elizabeth A. Brown
Clerk of Supreme Court
No. 79977

TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES.....	iii
STATEMENT OF JURISDICTION.....	1
ROUTING STATEMENT.....	1
STATEMENT OF THE LEGAL ISSUES PRESENTED.....	2
STATEMENT OF THE CASE.....	2
STATEMENT OF FACTS.....	4
SUMMARY OF ARGUMENT.....	9
ARGUMENT.....	11
The district court abused its discretion in failing to order a competency evaluation when reasonable doubt arose regarding the competence of Mr. Goad	11
<u>Standard of Review</u>	11
<u>Discussion</u>	11
The district court abused its discretion in admitting evidence related to Mr. Goad’s financial situation, including the fact that he was evicted from his apartment.....	17
<u>Standard of Review</u>	17
<u>Discussion</u>	17

The district court abused its discretion in admitting gruesome photographs of little probative value.....	23
<u>Standard of Review</u>	23
<u>Discussion</u>	23
CONCLUSION	25
CERTIFICATE OF COMPLIANCE.....	26
CERTIFICATE OF SERVICE.....	28

TABLE OF AUTHORITIES

CASES

<i>Berner v. State</i> 104 Nev. 695, 765 P.2d 1144 (1988).....	19
<i>Bigpond v. State</i> 128 Nev. 108, 270 P.3d 1244 (2012).....	18, 21
<i>Browne v. State</i> 113 Nev. 305, 933 P.2d 187 (1997).....	22
<i>Harris v. State</i> 134 Nev. 877, 432 P.2d 207 (2018).....	23, 24
<i>Hubbard v. State</i> 134 Nev. 450, 422 P.3d 1260 (2018).....	17
<i>Lipsitz v. State</i> 135 Nev. 131, 442 P.3d 138 (2019).....	11
<i>Melchor-Gloria v. State</i> 97 Nev. 174, 660 P.2d 109 (1983).....	12, 16
<i>Old Chief v. United States</i> 519 U.S. 172 (1997).....	22
<i>Olivares v. State</i> 124 Nev. 1142, 195 P.3d 864 (2008).....	11, 12
<i>Rosky v. State</i> 121 Nev. 184, 111 P.3d 690 (2005).....	18
<i>State v. District Court (Armstrong)</i> 127 Nev. 927, 267 P.3d 777 (2011).....	21

<i>Tavares v. State</i>	
117 Nev. 725, 130 P.3d 1128 (2001).....	18

<i>Tinch v. State</i>	
113 Nev. 1170, 946 P.2d 1061 (1997).....	18, 19

<i>Valdez v. State</i>	
124 Nev. 1172, 196 P.3d 465 (2008).....	25

STATUTES

NRS 48.015.....	17
-----------------	----

NRS 48.025.....	17
-----------------	----

NRS 48.035.....	17, 23
-----------------	--------

NRS 48.045.....	17, 18
-----------------	--------

NRS 177.015.....	1
------------------	---

NRS 178.400.....	15
------------------	----

NRS 178.405.....	12
------------------	----

NRS 193.165.....	2
------------------	---

NRS 200.010.....	2
------------------	---

NRS 200.030.....	2
------------------	---

NEVADA RULES OF APPELLATE PROCEDURE

Rule 4(b)	1
-----------------	---

Rule 17	1
Rule 28	26
Rule 30(c)	1
Rule 32	26

I. STATEMENT OF JURISDICTION

The district court filed a criminal judgment of conviction on October 3, 2019. 9 JA 1366.¹ Appellant, Ralph Edmond Goad (Mr. Goad), timely filed a notice of appeal on November 4, 2019. 9 JA 1368. This Court's jurisdiction rests on Rule 4(b) of the Nevada Rules of Appellate Procedure (NRAP) and NRS 177.015(3) (providing that a defendant may appeal from a final judgment in a criminal case).

II. ROUTING STATEMENT

Because Mr. Goad was convicted by a jury of a category A felony, this appeal is not presumptively assigned to the Nevada Court of Appeals under NRAP 17(b). Nor, however, is it within the mandatory review of the Supreme Court under NRAP 17(a). The issues presented can arguably be resolved by either the Supreme Court or the Court of Appeals. The Supreme Court may keep this appeal or may, in its discretion under NRAP 17(b), assign it to the Court of Appeals for disposition.

¹“JA” in this Opening Brief stands for the Joint Appendix. Pagination conforms to NRAP 30(c)(1). Volume numbers appear immediately before JA.

III. STATEMENT OF THE LEGAL ISSUES PRESENTED

The district court abused its discretion in failing to order a competency evaluation when reasonable doubt arose regarding the competence of Mr. Goad.

The district court abused its discretion in admitting evidence related to Mr. Goad's financial situation, including the fact that he was evicted from his apartment.

The district court abused its discretion in admitting gruesome photographs of little probative value.

IV. STATEMENT OF THE CASE

This is an appeal from a judgment of conviction. The State charged Mr. Goad, by way of grand jury indictment, with one count of murder with the use of a deadly weapon, a category A felony pursuant to NRS 200.010, NRS 200.030 and NRS 193.165. 1 JA 1-2.

Prior to trial, the State filed a Motion to Admit Evidence of Motive. 1 JA 4. Mr. Goad opposed the motion, and also filed a separate motion in limine requesting a limitation on any evidence related to alleged prior bad acts of Mr. Goad. 1 JA 34, 46. Further, Mr. Goad filed a Motion to Preclude or Limit the Use of Prejudicial Photographs, and the State opposed the motion. 1 JA 41, 84.

On July 22, 2019, the court conducted a pretrial motions hearing in Department 4 of the Second Judicial District Court. 2 JA 178. Shortly thereafter, the court granted the State's motion to admit evidence of motive, concluding that the State's proposed evidence was admissible under a theory of *res gestae* and motive. 2 JA 265. Due to scheduling conflicts, the case was transferred to Department 15, and Mr. Goad proceeded to trial. 2 JA 266.

A jury found Mr. Goad guilty of first degree murder with the use of a deadly weapon. 9 JA 1324-25. The parties jointly waived the right to a penalty hearing by jury, and Mr. Goad proceeded to a sentencing hearing before the district court on October 2, 2019. 9 JA 1326 (Stipulation and Waiver of Jury Penalty Hearing), 9 JA 1328 (Order), 9 JA 1330 (Transcript of Sentencing). The district court sentenced Mr. Goad to a term of life without the possibility of parole in the Nevada Department of Corrections, with a consecutive term of 36 to 240 months for the deadly weapon enhancement. 9 JA 1366. The district court awarded 210 days of presentence credit, and also imposed the statutorily required administrative fees and assessments. 9 JA 1366-67.

Mr. Goad filed a timely notice of appeal. 9 JA 1368.

V. STATEMENT OF FACTS

Background and trial testimony

Ralph Goad was very good friends with Theodore Gibson. The pair each had an apartment in the same hallway of the Park Manor Apartments, and would frequently share a drink together at Mr. Gibson's apartment. 4 JA 713-14.

In early February of 2019, another friend of Mr. Gibson became concerned because Mr. Gibson wasn't answering his phone. 4 JA 540. He contacted management of the Park Manor Apartments, and asked them to perform a welfare check. 4 JA 540. On February 13, employees of the Park Manor Apartments entered Mr. Gibson's unit, and discovered his body on the floor, covered with a blanket. 4 JA 673. They immediately contacted 911. 4 JA 673.

An ensuing autopsy revealed that Mr. Gibson had been stabbed approximately 250 times, including injuries to his face, neck, torso, arms, and one wound in his thigh. 6 JA 1017. He likely died due to loss of blood. 6 JA 1023.

In Mr. Gibson's apartment bathroom, investigators discovered several pairs of scissors and a fixed blade knife. There was red staining

consistent with blood in the sink. 4 JA 588. The contents of Mr. Gibson's wallet appeared to have been strewn about the floor. 4 JA 589. A calendar on the apartment wall had every day marked off through January 22. 4 JA 590.

Police detectives obtained surveillance video of the hallway of the Park Manor Apartments. 4 JA 597. On the video, Mr. Gibson is last seen entering his room on January 18. 4 JA 597. On the days between January 18 and 22, Mr. Goad is frequently seen on the surveillance video entering and exiting Mr. Gibson's apartment during the morning hours. Occasionally he would leave Mr. Gibson's apartment and return carrying a grocery store bag (presumably containing alcohol and cigarettes). Sometimes he would knock, and sometimes he wouldn't. 4 JA 608-15.

At approximately 2:00 pm on January 22, surveillance video showed Mr. Goad knocking on Mr. Gibson's door at a later time than usual. 4 JA 616. Approximately 20 minutes later, he left the apartment, carrying a bowl. He briefly entered his own apartment, and then let himself back inside Mr. Gibson's apartment. 4 JA 616. At approximately 5:30 pm on January 22, Mr. Goad exited Mr. Gibson's apartment for the

final time that day. 4 JA 617. Other surveillance footage revealed that Mr. Goad spent the next 21 hours at the Cal-Neva Casino. 6 JA 844-845.

Surveillance showed that Mr. Goad entered Mr. Gibson's apartment several other times, without knocking, between January 23 and 26. 4 JA 620-23. Mr. Goad was locked out of his own apartment for non-payment of rent on January 30, and did not return to the apartment complex. 4 JA 688.

Based on the surveillance footage, law enforcement obtained a search warrant for Mr. Goad's apartment. 5 JA 745. In the apartment, investigators discovered a pair of dark pants with red staining. 5 JA 748. They also discovered a gray sweatshirt with red staining. 5 JA 751. Subsequent DNA analysis revealed that the Mr. Goad was the contributing source for samples taken on the inside waistband of the dark pants. 6 JA 965. The red stains on the pants tested presumptively positive for blood, and contained mixed DNA samples consistent with both Mr. Gibson and Mr. Goad. 6 JA 964-65. With respect to the sweatshirt, DNA samples taken from the red stained areas were consistent with Mr. Gibson, while DNA samples from the inside collar of the sweatshirt were consistent with Mr. Goad. 6 JA 969-70.

Based on this investigation, Mr. Goad was arrested the Sacramento area on March 7. 6 JA 851.

Pretrial motions

Prior to trial, the State filed a motion to admit evidence of motive. 1 JA 4. Specifically, the State argued that before November of 2018, Mr. Goad and Mr. Gibson's respective incomes consisted of government benefits, which they received through the same payee service operated by Rebecca Korn. 2 JA 219-220. This payee service closed its doors in November 2018. Mr. Gibson transferred to the new payee service recommended by Ms. Korn, while Mr. Goad did not. 2 JA 219-220. Because Mr. Goad had not transferred payee services, his rent was not paid, and he was served an eviction notice. 2 JA 235-36. The State alleged that Mr. Goad's financial situation had become desperate, which motivated him to kill Mr. Gibson, taking any cash he had in his wallet. 1 JA 7-8.

In response, Mr. Goad presented evidence that he had received an inheritance from his mother, and intended to leave his apartment in Reno, and move to Sacramento to collect his inheritance. 1 JA 67-81. A manager for the Park Manor Apartments specifically testified that Mr.

Goad was unconcerned about his pending eviction, because he planned to move to Sacramento. 2 JA 237. Following a *Petrocelli* hearing, the district court found this evidence to be admissible, and multiple exhibits related to Mr. Goad's financial situation were admitted at trial. 2 JA 265, 8 JA 1140, 1152.

Also prior to trial, Mr. Goad filed a motion to preclude or limit the use of prejudicial photographs. 1 JA 41. At the ensuing pretrial motions hearing, Mr. Goad specifically argued that photographs of the blood soaked shirt taken off Mr. Gibson's body had very limited probative value, and presented danger of unfair prejudice. 2 JA 187. The district court determined that the proffered photographs were admissible. 2 JA 188.

Trial

Mr. Goad proceeded to trial on Monday, August 5, 2019. 3 JA 273. On Wednesday, August 7, it became apparent to the State, the court and to defense counsel that Mr. Goad was seriously unwell. 5 JA 804-808. Subsequent investigation by courtroom deputies revealed that Mr. Goad had not been given a critical medication, and the decision was made to adjourn for the day. 5 JA 806-807.

The next morning, on August 8, Mr. Goad refused to engage with either of his attorneys, or to even acknowledge their presence. 6 JA 817. Counsel expressed concern that Mr. Goad was not competent to proceed. 6 JA 818. The district court declined to initiate competency proceedings, stating that “[t]his trial is going to proceed with or without Mr. Goad’s presence or participation.” 6 JA 818. The district court then addressed Mr. Goad, who indicated to the district court that he was unable to speak. The court noted “he’s held his hand up to his throat indicating that there may be some problem with his ability to use words this morning.” 6 JA 820. The district court did not make further inquiry regarding the cause of this inability to “use words,” and proceeded with trial. 6 JA 820.

Trial concluded on August 9, 2019. After deliberating for approximately one hour, the jury found Mr. Goad guilty of murder with the use of a deadly weapon. 7 JA 1103, 1106. Mr. Goad appeals.

VI. SUMMARY OF ARGUMENT

The due process clause of both the United States and Nevada Constitutions mandate that a defendant may not be prosecuted if he is incompetent to stand trial. If reasonable doubt arises regarding a defendant’s competence at any time during trial, the district court must

initiate proceedings to determine if the defendant is competent to proceed.

In this case, Mr. Goad was found to be seriously ill on the afternoon of August 7. When he returned to court on August 8, he refused to engage with or acknowledge counsel, and appeared unable to assist counsel in his own defense. Given these circumstances, the district court abused its discretion in failing to initiate formal competency proceedings. This infringed on Mr. Goad's constitutional right to due process, and requires reversal.

In addition, the district court abused its discretion in admitting bad act evidence related to Mr. Goad's financial situation and subsequent eviction, as well as admitting unnecessary gruesome photographs during the testimony of the medical examiner. For all of the above reasons, reversal is required.

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VII. ARGUMENT

The district court abused its discretion in failing to order a competency evaluation when reasonable doubt arose regarding the competence of Mr. Goad.

Standard of Review

The decision of the district court to stay proceedings and order a competency evaluation is reviewed for an abuse of discretion. *Lipsitz v. State*, 135 Nev. 131, 134-35, 442 P.3d 138, 142 (2019).

Discussion

The due process clause of both United States Constitution and the Nevada Constitution provide that a defendant may not be prosecuted if he is incompetent to stand trial. *Lipitz*, 135 Nev. at 135, 442 P.3d at 142; *see also Olivares v. State*, 124 Nev. 1142, 1148, 195 P.3d 864, 868 (2008). A defendant is incompetent if he “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.’” *Lipsitz*, 135 Nev. at 135, 442 P.3d at 142 (quoting *Olivares*, 124 Nev. at 1148, 195 P.3d at 868); *see also* NRS 178.400(2)(a)-(c).

A district court is “compel[led]” to “hold a formal competency hearing when there is ‘substantial evidence’ that the defendant may not be competent to stand trial.” *Olivares v. State*, 124 Nev. 1142, 1148, 195 P.3d 864, 868 (2008); NRS 178.405. Evidence is “substantial” if it “raises a reasonable doubt about the defendant’s competency to stand trial.” *Id.* Notably, “[o]nce there is such evidence from any source, there is a doubt that cannot be dispelled by conflicting evidence.” *Id.*; *see also Melchor-Gloria v. State*, 97 Nev. 174, 180, 660 P.2d 109, 113 (1983). Accordingly, “[a] district court abuses its discretion and denies a defendant his right to due process when there is reasonable doubt regarding a defendant’s competency and the district court fails to order a competency evaluation.” *Olivares*, 124 Nev. at 1148, 195 P.3d at 868.

In this case, just after the lunch break on the third day of trial, the district court stated that “I’ve observed a difference in Mr. Goad’s physical appearance today. And during the lunch hour, just in the last five minutes, Deputy Coss came to me and said that there had been some inquiries about Mr. Goad’s health. I asked him if Mr. Goad’s attorneys were aware of it, and he said that they had been here for the entire break.” 5 JA 803. Deputies from the Washoe County Sheriff’s Office

subsequently informed the court that it appeared that Mr. Goad had not been given a required medication that morning, and needed to be transported to either the hospital or back to the jail. 5 JA 804.

The follow colloquy then occurred:

THE COURT: I have observed defense counsel attending to Mr. Goad a little more today than other times by reassurance, by subtle touch, by, by eye contacts. I think it's important that I hear from the two of you.

MR. SLOCUM: I will let the Court know, your Honor, that from the beginning when Mr. Goad was brought in this morning, Ms. Mayhew and I were concerned. And we actually asked that the courtroom be cleared so that we could have some private time with Mr. Goad.

After that conversation, Mr. Goad did indicate that there wasn't anything specifically that I could do to address his concerns. But in our estimation he has not gotten any better.

THE COURT: How does he appear right now compared to this morning?

THE DEFENDANT: What? Did you say something?

MR. SLOCUM: He appears to be, if anything, to be worse than he was this morning.

5 JA 805. When asked if the State had any input, the State responded that “[. . .] I would echo the observations, this morning when Mr. Goad came into the courtroom, he did not sit down, he stood there with a look

that I think was objectively concerning to the State.” 5 JA 806. Based on the concerns of all parties involved, the district court chose to adjourn early for the day so that Mr. Goad could be transported back to the jail. 5 JA 807.

The very next morning, defense counsel informed the court that while he truly believed Mr. Goad did not want to delay trial, he had concerns about the ability of Mr. Goad to proceed, and especially to assist his attorneys. 6 JA 816-17. Specifically, Mr. Goad had refused to acknowledge the presence of his attorneys or respond to the queries of either of his attorneys. 6 JA 817. Based on these concerns, counsel stated that he was not comfortable proceeding, and asked the district court to canvass Mr. Goad regarding his understanding of the proceedings. 6 JA 818.

In response, the district court stated that “I’m not going to conduct some form of informal mini mental examination from the bench. This trial is going to proceed with or without Mr. Goad’s presence or participation.” 6 JA 818. The district court then addressed Mr. Goad, who nodded his head, and raised his hand when asked if he wanted his trial to proceed. 6 JA 818. In response to the district court’s questioning,

Mr. Goad further indicated that he was unable to speak or “use words.” 6 JA 819. The district court ordered Mr. Goad provided with pen and paper so that he could write a note to his attorneys, but did not further inquire into why he was unable or unwilling to speak. 6 JA 820-21.

Given these circumstances, due process clearly required that Mr. Goad be evaluated for his competence to stand trial. As noted above, competence requires three separate showings: that the defendant is able to understand the nature and purpose of the proceedings; that he is able to understand the nature and substance of the charges against him; and that he is able to assist his defense counsel, at any time during the proceedings, with a reasonable degree of rational understanding. NRS 178.400(2)(a)-(c).

In this case, all of the parties agreed that due to the lack of a necessary medication on the third day of trial, Mr. Goad was, at a minimum, physically unable to be present. The very next day, counsel for the defense indicated that Mr. Goad refused to engage in any type of communication, whether verbal or non verbal, with counsel. Given the circumstances of the previous day, this clearly demonstrated reasonable doubt regarding Mr. Goad’s ability to assist his counsel. While the

district court's purported canvass with Mr. Goad established that Mr. Goad wished to proceed with trial, there was no indication regarding why Mr. Goad could not speak, or whether he was capable of providing any degree of assistance. In light of the serious medical concerns regarding Mr. Goad the prior day, some further inquiry was warranted. The comments from the district court made it clear that it was not the intent of the court to delay trial for any purpose.

Once any reasonable doubt regarding a defendant's competence has arisen, "the failure of the court to order a formal competency hearing is an abuse of discretion and a denial of due process." *Melchor-Gloria v. State*, 99 Nev. 174, 180, 660 P.2d 109, 113 (1983). Due to the very real concerns raised by defense counsel regarding Mr. Goad's competence, the district court abused its discretion in failing to stay the proceedings and order a competency evaluation.

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The district court abused its discretion in admitting evidence related to Mr. Goad’s financial situation, including the fact that he was evicted from his apartment.

Standard of Review

This court reviews the decision of the district court to admit or exclude prior bad act evidence for manifest abuse of discretion. *Hubbard v. State*, 134 Nev. 450, 454, 422 P.3d 1260, 1265 (2018).

Discussion

To be admissible at trial, evidence must be relevant. NRS 48.025(2). Relevant evidence must have “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 48.015. However, even if relevant, “evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or misleading the jury.” NRS 48.035.

The Nevada Supreme Court has consistently recognized that evidence related to other prior bad acts by a defendant must be treated with particular care. NRS 48.045(2) provides that

Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be

admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Nonetheless, the court has emphasized that “the use of uncharged bad act evidence to convict a defendant is heavily disfavored in our criminal justice system because bad acts are often irrelevant and prejudicial and force the accused to defend against vague and unsubstantiated charges.” *Tavares v. State*, 117 Nev. 725, 730, 30 P.3d 1128, 1131 (2001). Therefore, while NRS 48.045(2) allows the admission of bad act evidence for “a relevant non propensity purpose,” it is a narrow exception to the “presumption of inadmissibility [that] attaches to all prior bad act evidence.” *Bigpond v. State*, 128 Nev. 108, 116, 270 P.3d 1244, 1249 (2012) (quoting *Rosky v. State*, 121 Nev. 184, 195, 111 P.3d 690, 697 (2005)).

Accordingly, prior bad act evidence is admissible “only when the trial court determines that (1) the evidence is relevant to the crime charged, (2) the act is proven by clear and convincing evidence, and (3) the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice.” *Bigpond*, 128 Nev. at 116-17, 270 P.3d at 1249 (citing *Tinch v. State*, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064-65

(1997)). As discussed further below, evidence of Mr. Goad's eviction was not relevant to the crime charged. Further, any probative value was outweighed by the danger of unfair prejudice, indicating that the district court manifestly abused its discretion in admitting this evidence.

Evidence related to Mr. Goad's eviction and financial resources was not relevant

Relevant evidence must have "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 48.015. In other words, evidence is relevant if it "tend[s] logically and by inference to establish a fact material to the State." *Berner v. State*, 104 Nev. 695, 697, 765 P.2d 1144, 1146 (1988) (internal quotations omitted) (modified on other grounds by *Tinch v. State*, 113 Nev. 1170, 946 P.2d 1061 (1997)).

In this case, the State contended that after his payee counseling service closed in November of 2018, Mr. Goad had no source of income, which lead to his eventual eviction from his apartment on January 30, 2010. 1 JA 5. The State further alleged that this constituted evidence of motive, because the victim's wallet had been found near his body, with

the contents strewn about. 1 JA 6. Accordingly, the State's theory was that Mr. Goad killed Mr. Gibson in an attempt to obtain money.

This evidence was irrelevant for several reasons. First, while the State presented evidence that Mr. Goad's payee service had closed, and that he had not signed up with the new payee service used by Mr. Gibson, there was no evidence presented that Mr. Goad was actually not receiving his social security benefits. In fact, Rebecca Korn, the owner of Mr. Goad's former payee service testified at the *Petrocelli* hearing that after she closed her business, she believed that Mr. Goad had requested to receive his benefits directly from social security, without a payee. 2 JA 220.

Further, the defense presented evidence in its opposition to the State's motion that Mr. Goad had received a bequest of approximately \$4000 from his mother's will, which he planned to go and collect in Sacramento. 1 JA 68-71; 2 JA 234. Victoria Juarez, a manager for the Park Manor Apartments also testified that she had warned Mr. Goad that he would be evicted for failure to pay his rent, to which he responded that it didn't matter, because he was going to be returning to Sacramento.

2 JA 238. This directly contradicts the State’s theory that Mr. Goad was in a desperate financial situation, and killed Mr. Gibson as a result.

In addition, the State’s position, throughout the case, was that Mr. Gibson was killed sometime around January 22, 2019. Mr. Goad was not locked out until January 30. 4 JA 676. The fact that Mr. Goad was subsequently evicted on January 30 has little to no relevance regarding his alleged motive to commit a crime a week earlier. Accordingly, the district court abused its discretion in concluding that evidence related to Mr. Goads financial situation, and particularly his eviction, was relevant.

Any probative value regarding Mr. Goad’s financial situation and eviction was outweighed by the danger of unfair prejudice

Even if otherwise relevant, bad act evidence must be excluded pursuant to *Bigpond* if the probative value of the evidence is outweighed by the danger of unfair prejudice. 128 Nev. at 116-17, 270 P.3d at 1249. Recognizing that all evidence against a defendant tends to prejudice the defense, the Nevada Supreme Court has defined “unfair prejudice” as “an appeal to ‘the emotional and sympathetic tendencies of a jury, rather than the jury’s intellectual ability to evaluate the evidence.’” *State v. District Court (Armstrong)*, 127 Nev. 927, 933-34, 267 P.3d 777, 781

(2011) (quoting *Krause, Inc. v. Little*, 117 Nev. 929, 935, 34 P.3d 566, 570 (2001)). The United States Supreme Court has further explained that with respect to a criminal defendant, the term “unfair prejudice . . . speaks to the capacity of some concededly relevant evidence to lure the factfinder into declaring guilt on a ground different from proof specific to the offense charged.” *Old Chief v. United States*, 519 U.S. 172, 180 (1997) (internal quotations omitted).

Here, the State’s evidence worked to paint Mr. Goad 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. This clearly invited the jury to conclude that Mr. Goad was the “type” of person likely to commit the alleged crime, rather than convict him pursuant to specific evidence presented. As argued above, the probative value of this alleged evidence was speculative at best. Therefore, given the prejudicial nature of this evidence, the district court abused its discretion admitting evidence related to Mr. Goad’s financial situation and eviction.

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The district court abused its discretion in admitting gruesome photographs of little probative value.

Standard of Review

This decision of the district court to admit or exclude photographic evidence is reviewed for abuse of discretion. *Browne v. State*, 113 Nev. 305, 314, 933 P.2d 187, 192 (1997).

Discussion

NRS 48.035 provides that “[a]lthough relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury.” Mr. Goad recognizes that generally, “photographs of a victim’s injuries tend to be highly probative and thus are frequently deemed admissible in criminal cases despite their graphic content.” *Harris v. State*, 134 Nev. 877, 880, 432 P.2d 207, 210 (2018). “But while that is generally true, it does not mean such photographs are *always* admissible, regardless of the facts and circumstances of a given case.” *Id.* (emphasis in original). Therefore, the district court must apply the balancing test set forth in NRS 48.035 to determine whether the probative value of any proffered photograph is outweighed by the danger of unfair prejudice. *Id.*

Further, rather than assess gruesome photographs, such as autopsy photographs, as a group, the district court must conduct “a meaningful weighing of the potential for unfair prejudice against each photograph’s probative value.” *Id.* at 880, 432 P.2d at 211.

In this case, prior to trial, Mr. Goad submitted a motion seeking to limit the use of prejudicial autopsy photographs. 1 JA 41. At the pretrial motions hearing, Mr. Goad specifically objected to photographs of Mr. Goad’s clothing, which were heavily soaked with blood. 2 JA 187-88. The district court found the photographs to be admissible, apparently adopting the reasoning of the State that the photographs were necessary to allow the pathologist to testify that the wounds on Mr. Gibson’s body matched the wounds on the t-shirt. 2 JA 188.

This was an abuse of discretion. The photographs, which depict a jacket and shirt heavily soaked with blood, contained little probative value. 8 JA 1131, 1133. At trial, Mr. Goad did not object to the admission of the multiple other photographs in the autopsy series, all of which depicted Mr. Gibson’s injuries. 6 JA 1002-1005; 8 JA 1114-1139. In referencing the photographs, the medical examiner stated only that the “defects” in the jacket and shirt corresponded to Mr. Gibson’s wounds. 6

JA 1021-1022. The photographs were extremely graphic, and carried a high danger of unfair prejudice. Therefore, in these circumstances, the district court abused its discretion in admitting the photographs.

VII. CONCLUSION

The district court's failure to order formal competency proceedings when reasonable doubt arose regarding Mr. Goad's ability to assist his attorney violated his right to due process, and requires reversal. Further, the district court abused its discretion in admitting evidence related to Mr. Goad's financial situation and eviction, as well as unnecessary and gruesome photographs during the testimony of the medical examiner. Viewed either individually or cumulatively, these errors warrant reversal. *See Valdez v. State*, 124 Nev. 1172, 1195, 196 P.3d 465, 481 (2008) (discussing cumulative error).

DATED this 8th day of May, 2020.

/s/ Kathryn Reynolds
KATHRYN REYNOLDS
Deputy Public Defender
Washoe County Public Defender's Office
Nevada State Bar No. 10955

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 Century in 14-point font.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, even including the parts of the brief though exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points and contains a total of 5,699 words. NRAP 32(a) (7) (A) (i), (ii).

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 of the transcript or appendix where the matter relied upon is to be found.

I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 8th day of May 2020.

/s/ Kathryn Reynolds

KATHRYN REYNOLDS

Deputy Public Defender

Washoe County Public Defender's Office

Nevada State Bar No. 10955

CERTIFICATE OF SERVICE

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

Jennifer P. Noble, Chief Appellate Deputy
Washoe County District Attorney's Office

I further certify that I served a copy of this document by providing a copy to:

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/s/ Kathryn Reynolds
KATHRYN REYNOLDS
Deputy Public Defender
Washoe County Public Defender's Office
Nevada State Bar No. 10955