

IN THE SUPREME COURT OF THE STATE OF NEVADA

CONRADO SESMA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 42927

**FILED**

**AUG 26 2004**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Rubark*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE AND LIMITED REMAND TO CORRECT  
THE JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of attempted murder with the use of a deadly weapon and battery with the use of a deadly weapon causing substantial bodily harm. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge. The district court sentenced appellant Conrado Sesma to serve two consecutive prison terms of 32-144 months for the attempted murder and a concurrent prison term of 26-120 months for the battery, and ordered him to pay \$59,252.53 in restitution and \$323.95 in extradition fees.

Sesma's sole contention is that the evidence presented at trial was insufficient to support the jury's finding that he was guilty beyond a reasonable doubt on both counts. Sesma argues that: (1) there were discrepancies in one of the State's witnesses' account of events and trial testimony; and (2) he shot the victim in self-defense. We disagree with Sesma's contention.

Our review of the record on appeal reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational

trier of fact.<sup>1</sup> Initially, we note that Sesma admitted at trial to shooting twice at the victim. And in particular, we note that several witnesses testified that Sesma expressly stated that he intended to kill the victim immediately prior to shooting at him. One of the shots struck the victim in the left eye, resulting in an extended hospital stay, permanent loss of vision in the injured eye, significant weight loss, headaches, and memory loss. Additionally, the preliminary hearing testimony of the victim, who was unable to testify at the trial, was read into evidence. The victim testified that he and Sesma were friends, but on that particular day they quarreled and fought, after which, Sesma stated that he was going to get his gun in order to kill the victim. Approximately 30 minutes later, Sesma confronted the victim outside and fired at him. The victim testified that he was not, at any time, in possession of a gun.

Based on the above, we conclude that the jury could reasonably infer from the evidence presented that Sesma committed the crimes of attempted murder with the use of a deadly weapon and battery with the use of a deadly weapon causing substantial bodily harm.<sup>2</sup> It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, sufficient evidence supports the verdict.<sup>3</sup> We also note that

---

<sup>1</sup>See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Mason v. State, 118 Nev. 554, 559, 51 P.3d 521, 524 (2002) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).


<sup>2</sup>See NRS 193.165; NRS 193.330; NRS 200.010; NRS 200.030; NRS 200.481.

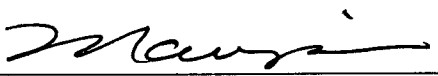
<sup>3</sup>See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

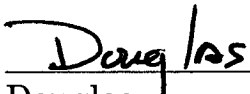
circumstantial evidence alone may sustain a conviction.<sup>4</sup> Therefore, we conclude that the State presented sufficient evidence to sustain the conviction.

Having considered Sesma's contention and concluded that it is without merit, we affirm the judgment of conviction. Our review of the judgment of conviction, however, reveals a clerical error. The judgment of conviction incorrectly states that Sesma was convicted pursuant to a guilty plea. The judgment of conviction should have stated that Sesma was convicted pursuant to a jury verdict. We therefore conclude that this matter should be remanded to the district court for the limited purpose of correcting the judgment of conviction. Accordingly, we

ORDER the judgment of the district court AFFIRMED and REMAND this matter to the district court as noted above.

 \_\_\_\_\_, J.  
Rose

 \_\_\_\_\_, J.  
Maupin

 \_\_\_\_\_, J.  
Douglas

cc: Hon. Nancy M. Saitta, District Judge  
Paul E. Wommer  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

---

<sup>4</sup>See Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003).