

IN THE SUPREME COURT OF THE STATE OF NEVADA

JONATHAN HUGH BANTA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 42985

FILED

AUG 27 2004

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of driving under the influence with two or more prior convictions. Second Judicial District Court, Washoe County; Peter I. Breen, Judge. The district court sentenced appellant to a prison term of 18 to 48 months.

Appellant contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact.<sup>1</sup>

In particular, we note that a sheriff's deputy approached appellant's car after receiving a report that the car had been tailgating another car. The deputy observed appellant drive the vehicle forward a few feet. The deputy testified that appellant was the only occupant of the vehicle. Following the administration of field sobriety tests, appellant's blood was drawn and his blood alcohol level was .195.

The jury could reasonably infer from the evidence presented that appellant was driving under the influence. It is for the jury to

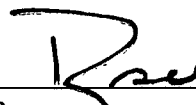
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<sup>1</sup>See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998).

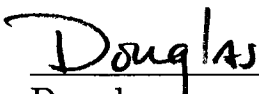
determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.<sup>2</sup>

Having considered appellant's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

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

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

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

cc: Hon. Peter I. Breen, District Judge  
Arnold Brock Jr.  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk

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<sup>2</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).