

IN THE SUPREME COURT OF THE STATE OF NEVADA

WALTER GAMMAD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43053

FILED

JUL 29 2004

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of conspiracy to commit robbery and robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge. The district court sentenced appellant Walter Gammad to serve a prison term of 12-36 months for the conspiracy and a concurrent prison term of 24-60 months for the robbery with an equal and consecutive prison term for the use of a deadly weapon.

Gammad contends 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. Gammad argues that the victim was mistaken when she identified Gammad and his accomplice as the culprits. More specifically, Gammad claims that: (1) it was too dark outside and there was no direct lighting in the area; (2) the incident "took less than a minute"; and (3) the victim was more concerned about the gun pointing at her, unfastening her seatbelt, and the welfare of her young child to have noticed who robbed her of her vehicle. We disagree with Gammad'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.¹ In particular, we note that the victim identified Gammad on four separate occasions – at a show-up soon after the robbery, at a detention center physical line-up, at the preliminary hearing, and at trial – as the man who ordered her out of her car at gunpoint and stole her vehicle. When the victim exited her vehicle, she noticed another vehicle, and its driver (Gammad’s accomplice), blocking the driveway. Additionally, a latent print examiner with the Las Vegas Metropolitan Police Department (LVMPD) testified at trial that a fingerprint recovered from inside the victim’s vehicle by a crime scene analyst belonged to Gammad. The same LVMPD crime scene analyst testified at trial that upon examination of the stolen vehicle, he discovered a sawed-off, twelve-gauge shotgun on the backseat of the car.

Based on the above, we conclude that the jury could reasonably infer from the evidence presented that Gammad committed the crimes of conspiracy to commit robbery and robbery with the use of a deadly weapon.² 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

¹See 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)).


²NRS 200.380(1) defines robbery as:

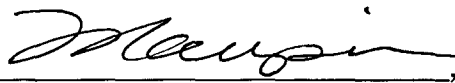
[T]he unlawful taking of personal property from the person of another, or in his presence, against his will, by means of force or violence or fear of injury, immediate or future, to his person or property, or the person or property of a member of his family, or of anyone in his company at the time of the robbery.


appeal where, as here, sufficient evidence supports the verdict.³ We also note that circumstantial evidence alone may sustain a conviction.⁴ Therefore, we conclude that the State presented sufficient evidence to sustain the conviction.

Accordingly, having considered Gammad's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. John S. McGroarty, District Judge
Paul E. Wommer
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

³See 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).

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