

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOEL SANCHEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43663

FILED

FEB 15 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of battery with the use of a deadly weapon resulting in substantial bodily harm (count I), battery with the use of a deadly weapon (count II), conspiracy to commit murder (count III), two counts of attempted murder with the use of a deadly weapon (counts IV-V), one count of discharging a firearm out of a motor vehicle (count VI), and two counts of discharging a firearm at or into a structure (counts VII-VIII). Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. The district court sentenced appellant Joel Sanchez to serve a prison term of 24-96 months for count I, a concurrent prison term of 24-72 months for count II, a concurrent prison term of 24-62 months for count III, a consecutive prison term of 24-96 months plus an equal and consecutive prison term for count IV, a prison term of 24-96 months plus an equal and consecutive prison term for count V to run concurrently with the sentence imposed for count IV, a prison term of 24-84 months for count VI to run concurrently with the sentence imposed for count V, a consecutive prison term of 12-48 months for count VII, and a prison term of 12-48 months for count VIII to run concurrently with the sentence imposed for count VII.

Sanchez contends that the evidence presented at trial was insufficient to support the jury's finding that he was guilty beyond a reasonable doubt of battery with the use of a deadly weapon resulting in substantial bodily harm (count I) and battery with the use of a deadly weapon (count II). Citing to Rodriguez v. State<sup>1</sup> and Sharma v. State<sup>2</sup> for support, Sanchez argues that he was "merely present" when his codefendant and a third individual attacked the victims, and that in no way did he aid and abet, encourage, or provoke. We disagree.

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>3</sup> In particular, we note that the victims testified at trial that they were approached by Sanchez, his codefendant, and a third individual, Dusty Mashtare, and after a brief verbal exchange, Mashtare struck one of the victims.<sup>4</sup> One of the victims testified that the three men were armed with "[a] gun, a knife, and a chain with a lock on the end." A fight ensued, during which, Sanchez's codefendant struck the victims repeatedly with

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<sup>1</sup>107 Nev. 432, 435, 813 P.2d 992, 994 (1991) (holding that "[i]t is well established that mere presence at the scene of a crime cannot support an inference that one is party to an offense").

<sup>2</sup>118 Nev. 648, 655, 56 P.3d 868, 872 (2002) (holding that "in order for a person to be held accountable for the specific intent crime of another under an aiding and abetting theory of principal liability, the aider or abettor must have knowingly aided the other person with the intent that the other person commit the charged crime").

<sup>3</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>4</sup>Mashtare testified at trial on behalf of the State.

the 18-20 inch lock and chain. One of the victims received numerous bruises and lacerations across his back, head, and face requiring multiple stitches and staples.

Also admitted at trial was a voluntary statement made by Sanchez to Detective Steven Collins of the Las Vegas Metropolitan Police Department. Defense counsel stipulated to the statement's admission. In his statement, Sanchez admitted to having fought with one of the victims a couple of weeks earlier. On the day of the instant incident, Sanchez stated that he went to Mashtare's house "to get some back up" prior to confronting that same victim. Sanchez also admitted punching one of the victims several times during the fight.

Based on the above, we conclude that the jury could reasonably infer from the evidence presented that Sanchez committed the crimes of battery with the use of a deadly weapon resulting in substantial bodily harm (count I) and battery with the use of a deadly weapon (count II).<sup>5</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>6</sup> We also note that circumstantial evidence alone may sustain a conviction.<sup>7</sup> Therefore, we conclude that the State presented sufficient evidence to sustain the conviction.

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<sup>5</sup>See NRS 200.481(1)(a); NRS 200.481(2)(e)(1)-(2); see also NRS 195.020.

<sup>6</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).

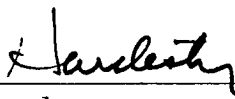
<sup>7</sup>See Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003).

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

ORDER the judgment of conviction AFFIRMED.

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

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Donald M. Mosley, District Judge  
Craig P. Kenny & Associates  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk