

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES DAVID OFELDT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43718

FILED

MAR 24 2006

JANEY L. GLENN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a jury verdict, of one count each of robbery with the use of a deadly weapon, burglary, and conspiracy to commit robbery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge. The district court sentenced appellant James David Ofeldt to serve a prison term of 36 to 156 months for robbery, a like and consecutive prison term for the use of a deadly weapon, and concurrent prison terms for the remaining two counts.

Ofeldt contends that evidence presented at trial was insufficient to support his convictions for robbery, burglary, and conspiracy because his identity as the perpetrator of these crimes was not proven beyond a reasonable doubt. Our review of the record on appeal, however, reveals sufficient evidence to establish Ofeldt's guilt beyond a reasonable doubt as determined by a rational trier of fact.¹

In particular, we note that both victims testified that Ofeldt was one of the robbers, Ofeldt's girlfriend testified that Ofeldt was one of the people depicted in surveillance video of the robbery, and one of Ofeldt's

¹See McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (citing Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

accomplices testified that Ofeldt was with him when he robbed the Domino's Pizza. Moreover, the jury had an opportunity to observe the surveillance video of the robbery.

We conclude that a rational juror could reasonably infer that Ofeldt was one of the perpetrators of the Domino's Pizza robbery from the evidence adduced at trial. 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, substantial evidence supports the verdict.² Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

cc: Hon. Steven P. Elliott, District Judge
John P. Calvert
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

²See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair, 108 Nev. at 56, 825 P.2d at 573.