

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERTO F. ORTEGA, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44439

FILED

OCT 04 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
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 of possession of a stolen vehicle (Count I), one count of possession of stolen property (Count II), one count of possession of a controlled substance (Count III), and one count of possession of a controlled substance with the intent to sell (Count IV). Eighth Judicial District Court, Clark County; Michael A. Cherry, Judge. The district court sentenced appellant: for Count I, to a prison term of 12 to 32 months; for Count II, to a concurrent prison term of 12 to 48 months; for Count III, to a concurrent prison term of 12 to 32 months; and for Count IV, to a concurrent prison term of 12 to 32 months. The district court suspended the sentences and placed appellant on probation for an indeterminate period not to exceed 5 years.

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.¹

In particular, we note that appellant admitted to police officers that the motorcycle, firearm, methamphetamine and marijuana belonged to appellant. He further stated that he got the motorcycle and gun from a friend, and that he did not steal them, but he thought they might have been stolen. Additionally, police officers found the marijuana in a cupboard with a scale and hundreds of small plastic bags.

The jury could reasonably infer from the evidence presented that: (1) appellant possessed a stolen motorcycle and firearm; (2) he possessed methamphetamine; and (3) he possessed the marijuana with the intent to sell. 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

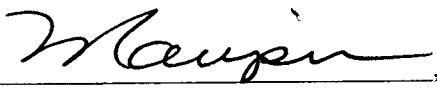
Having concluded that appellant's contention lacks merit, we affirm the judgment of conviction. However, our review of the judgment of conviction reveals a clerical error. The judgment of conviction states that appellant was convicted pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. Further, the judgment of conviction states only that appellant was convicted of Count I, but enumerates the

¹See 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).

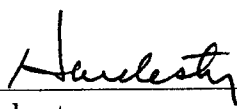
²See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

sentences for all four of the counts charged in the amended information and of which appellant was convicted. Accordingly, we

ORDER the judgment of the district court AFFIRMED and REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Michael A. Cherry, District Judge
Law Office of Betsy Allen
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk