

IN THE SUPREME COURT OF THE STATE OF NEVADA

MIGUEL ANGEL CHAVEZ A/K/A
MIGUEL ANGEL CHAVEZ, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44477

FILED

OCT 04 2005

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of burglary. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant to a prison term of 18 to 78 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.¹

In particular, we note that a surveillance video tape showed appellant, his brother, and an individual named Daniel Gomez enter a Blockbuster Video store. The three individuals remained in the store for about half an hour and left without renting or buying anything. When they left, two of the individuals squeezed through a narrow opening between the wall and the security sensors to avoid passing through the sensors. The store manager, who was not present during the incident but reviewed the surveillance tape later, testified that appellant was the individual who exited the store by walking between the sensors. A police

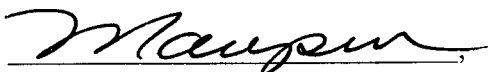
¹See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998).

officer who watched the surveillance tape testified that appellant's brother was actually the one who walked between the sensors, and that appellant was one of the two who squeezed through the opening. After the individuals left the store, store personnel discovered that four videos and a video game were missing. Three of the videos were subsequently recovered from Gomez' home, pursuant to the execution of a search warrant.

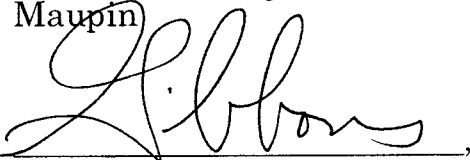
The jury could reasonably infer from the evidence presented that appellant committed burglary, despite the conflicting testimony about whether appellant exited through the sensors or not. It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.²

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

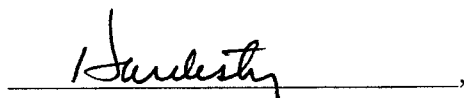
ORDER the judgment of conviction AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

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).

cc: Hon. Stewart L. Bell, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk