

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY ALAN HANKS, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45585

FILED

JAN 24 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
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 embezzlement. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On May 26, 2005, the district court sentenced Hanks to serve a prison term of 12 to 30 months. The sentence was suspended and Hanks was placed on probation for a period not to exceed 18 months.

Hanks' sole contention is that the state's evidence was insufficient to prove the crime of embezzlement beyond a reasonable doubt. 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 to prove embezzlement, the State must show that Hanks converted money to his own use, with the intent to

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).

steal or defraud.² The state presented evidence, not in dispute, that Hanks used his position as the IT administrator overseeing the production of computer generated checks to obtain for his own personal use. He took checks from the bottom of the check stock to conceal his embezzlement, he took more money than he earned, and he needed the money to prevent his trailer from being repossessed.

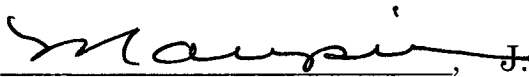
The jury could reasonably infer from the evidence presented that Hanks embezzled money from his employer. It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.³

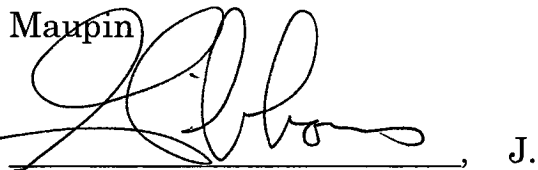
We conclude that the state presented sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational juror. Having considered appellant's contentions and concluded that they are without merit, we affirm the judgment of conviction. Our review of the judgment of conviction, however, reveals a clerical error. The judgment of conviction incorrectly states that appellant was convicted pursuant to a guilty plea. The judgment of conviction should have stated that appellant was convicted pursuant to a jury verdict. Accordingly, we

²See NRS 205.300.

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).

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. Michelle Leavitt, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk