

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL MCKINNEY A/K/A  
NATHANIEL MCKINNEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45826

**FILED**

MAR 24 2006

JANET J. BERRY  
CLERK OF SUPREME COURT  
*[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a jury verdict, of one count of conspiracy to commit robbery and four counts of robbery with the use of a firearm. Second Judicial District Court, Washoe County; Janet J. Berry, Judge. The district court sentenced appellant Michael McKinney to serve 9 consecutive prison terms of 24 to 60 months.

McKinney contends that the evidence presented at trial was insufficient to support his convictions for conspiracy and robbery. He specifically asserts that there was no physical evidence linking him to the crimes and that the identifications made by the two female victims were inadequate. Our review of the record on appeal, however, reveals sufficient evidence to establish McKinney's guilt beyond a reasonable doubt as determined by a rational trier of fact.<sup>1</sup>

In particular, we note that victim Beth Roberts identified McKinney in court and she testified that she immediately recognized him as one of the robbers while going through photographs at the police

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

station. Victim Angel Favela identified McKinney in court and she testified that she recognized him during the robberies as someone whom she had seen several times on the third floor of the Ponderosa Hotel where she used to live. Officer Jim Duncan testified that he executed a search warrant at the Ponderosa Hotel and found indicia that McKinney occupied room 327.

We conclude that a rational juror could reasonably infer that McKinney was the one who perpetrated the crimes of conspiracy to commit robbery and robbery with the use of a firearm. It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturb on appeal where, as here, substantial evidence supports the verdict.<sup>2</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.  
Douglas

Becker, J.  
Becker

Parraguirre, J.  
Parraguirre

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

cc: Hon. Janet J. Berry, District Judge  
Michael V. Roth  
Attorney General George Chanos/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk