

IN THE SUPREME COURT OF THE STATE OF NEVADA

HELEN MARKS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45920

**FILED**

APR 20 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of robbery with use of a deadly weapon and adjudication as a habitual criminal. Eighth Judicial District Court, Clark County; Michael A. Cherry, Judge.

Appellant Helen Marks was sentenced to a prison term of 5 to 20 years. Marks sole issue on appeal is that there was insufficient evidence adduced at trial to support her conviction. 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.<sup>1</sup>

In particular, we note Marks testified she was shoplifting in the presence of employees at the store. When employees attempted to retrieve the items Marks was attempting to steal, Marks threatened them with a knife.

Robbery is the unlawful taking of personal property from the person of another, or in his presence, against his will, by means of force or violence or fear of injury, immediate or future, to his person or property, or the person or property of


<sup>1</sup>See 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).

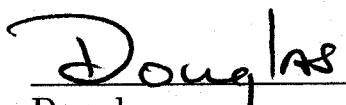
a member of his family, or anyone in his company at the time of the robbery. A taking is by means of force or fear if force or fear is used to:

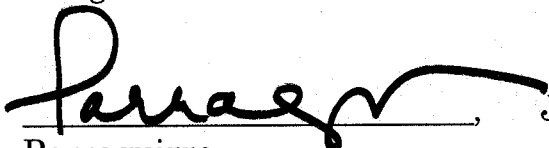
- (a) Obtain or retain possession of the property;
- (b) Prevent or overcome resistance to the taking;
- or (c) Facilitate escape.<sup>2</sup>

Marks was still in possession of some of the shoplifted items when she brandished the knife.<sup>3</sup> The jury could reasonably infer from the evidence presented that Marks used the knife to retain possession of the property, overcome resistance to the taking or facilitate her escape. 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.<sup>4</sup>

Having concluded that Mark's contention lacks merit, we  
ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Rose

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Parraguirre

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<sup>2</sup>NRS 200.380(1)

<sup>3</sup>Cf. Martinez v. State, 114 Nev. 746, 961 P.2d 752 (1998).

<sup>4</sup>See 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. Michael A. Cherry, 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