

IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDOLPH WILLIAM POTTS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45981

FILED

MAR 24 2006

ORDER OF AFFIRMANCE

JANETZE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of battery with a deadly weapon causing substantial bodily harm, and one count of battery causing substantial bodily harm. Second Judicial District Court, Washoe County; Jerome Polaha, Judge. The district court sentenced appellant Randolph Potts to a prison term of 36 to 120 months for battery with the use of a deadly weapon, and a prison term of 18 to 60 months for battery.

Potts 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, Potts argues that the State did not prove beyond a reasonable doubt that Potts did not act in self-defense.

However, Potts' testimony at trial was that he never hit either of the victims, but rather that both victims fell after a brief scuffle. Potts

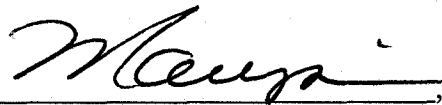
¹See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998).

further testified that the injuries suffered by the victims were the result of falling and hitting their heads on the floor.

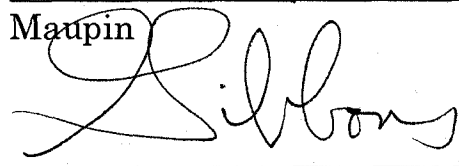
There was testimony presented from one of the victims and a witness that Potts was holding the victim against the wall and hitting him in the face with a gun. The other victim could not remember the incident because of the skull fracture he suffered, but he remembers suddenly finding himself on the floor bleeding. Neither of the victims was armed.

The jury could reasonably infer from the evidence presented that Potts committed battery, and that he was not acting in self-defense. 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 Additionally, we note that Potts concedes that the jury was properly instructed as to self-defense. Accordingly, we

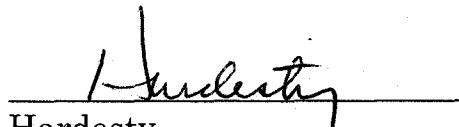
ORDER the judgment of conviction AFFIRMED.

 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. Jerome Polaha, District Judge
Washoe County Public Defender
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk