

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRETT WITZENBURG,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45997

**FILED**

FEB 17 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, entered pursuant to a bench trial, of one count of grand larceny. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge. The district court adjudicated appellant Brett Witzenburg a habitual criminal and sentenced him to a prison term of 60 to 150 months.

Witzenburg contends that the evidence presented at trial was insufficient evidence to support his conviction for grand larceny. He specifically asserts that there was no evidence that anyone actually saw him take the victim's winnings. 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 that the State presented evidence that the victim cashed out her slot machine winnings and received two buckets, each containing \$400.00 in silver dollar tokens. She placed the buckets on her right side, and she resumed playing. Subsequently, someone came up to her left side and asked for the time. When she turned to the left, she heard coins falling. She turned right and saw Witzenburg running away


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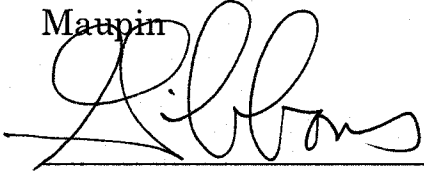
<sup>1</sup>McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

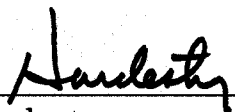
with a bucket of her coins. The victim made an in-court identification of Witzenburg, and she authenticated casino surveillance video coverage depicting Witzenburg immediately before and after he was observed with the bucket of coins.

We conclude that the trial court could reasonably infer from the evidence presented that Witzenburg actually took the victim's winnings, and we will not disturb the trial court's finding of guilt on appeal where, as here, substantial evidence supports the finding.<sup>2</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

Maupin  
  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Lee A. Gates, 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

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<sup>2</sup>See McNair, 108 Nev. at 56, 825 P.2d at 573.