

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD T. MOORE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46020

**FILED**

JUN 29 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of discharging a weapon where a person might be endangered (count I), discharging a firearm at or into a structure (count II), and attempted murder with the use of a deadly weapon (counts III and V). Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Richard T. Moore to serve a jail term of 12 months for count I, a prison term of 12-48 months for count II, two consecutive prison terms of 24-120 months for count III, and two consecutive prison terms of 24-120 months for count V; counts I, II, and III were ordered to run concurrently with each other, and count V was ordered to run consecutively to the first three counts.

Moore's sole contention is that the evidence presented at trial was insufficient to support the jury's finding that he was guilty beyond a reasonable doubt on all counts. Specifically, Moore argues that there were conflicting descriptions of the shooter, more than one individual at the party possessed a gun, he did not flee from the scene, and defense witnesses testified that he was not the shooter. Moore claims that his convictions should be reversed because, "at best, the evidence was in a state of equipoise." We disagree.

A review of the record on appeal 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 host of the party, Patricia Chun, testified that she saw Moore brandishing a gun, outside, in front of her house, moments before the shooting began. Testimony adduced at trial indicated that Moore was aiming at Jason Remer. Remer testified that he had an altercation with someone named "Nick," an acquaintance of Moore's, and that after he heard Nick tell Moore to "get him," Moore started shooting. Renee Maldier testified that she first saw Moore shoot in the air, and then, in the direction of Chun's house. Maldier stated that Moore shot "more than two or three times. It was all in a row." Maldier also witnessed a bystander, Karsten Koger, get shot in the back. Koger positively identified Moore as the shooter. Jana Quick testified that she was trying to run back inside Chun's house when she was shot in her right knee. Several individuals testified to having witnessed the shooting, and their descriptions of the shooter were accurate, consistent, and identified Moore. Finally, Timothy Fallon, a crime laboratory director, testified that gunshot residue was found on the palm and back of Moore's right hand. Fallon stated that "[h]aving residue on the palm and the back of the hand makes it more likely that [Moore] fired a weapon than he just handled a weapon."

Based on the above, we conclude that the jury could reasonably infer from the evidence presented that Moore committed the crimes of discharging a weapon where a person might be endangered,


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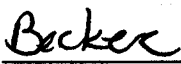
<sup>1</sup>See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Mason v. State, 118 Nev. 554, 559, 51 P.3d 521, 524 (2002) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

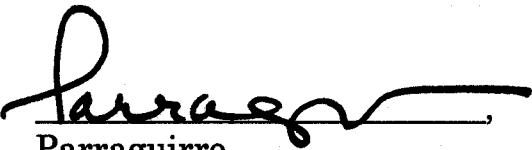
discharging a firearm at or into a structure, and attempted murder with the use of a deadly weapon.<sup>2</sup> It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, sufficient evidence supports the verdict.<sup>3</sup> Moreover, we note that circumstantial evidence alone may sustain a conviction.<sup>4</sup> Therefore, we conclude that the State presented sufficient evidence to sustain the convictions.

Having considered Moore's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

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

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

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

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<sup>2</sup>See NRS 202.290(2); NRS 202.285(1)(b); NRS 200.010(1); NRS 200.030; NRS 193.330(1); NRS 193.165(5).

<sup>3</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).

<sup>4</sup>See Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003).

cc: Hon. Stewart L. Bell, District Judge  
Donald J. Green  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk