

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD WHITE A/K/A DON WHITE
A/K/A DON EUGENE WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46022

FILED

MAR 13 2006

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty verdict upon a bench trial, of one count of conspiracy to commit robbery, one count of robbery with the use of a deadly weapon, and one count of burglary while in possession of a firearm. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge. Appellant Donald White was sentenced on count I, conspiracy to commit robbery, to a prison term of 12-48 months. On count II, robbery with the use of a deadly weapon, White was sentenced to a prison term of 24-60 months, plus an equal and consecutive term for the use of a deadly weapon to run concurrent with count I. On count IV, burglary while in possession of a firearm, White was sentenced to a prison term of 24-60 months to run concurrent with counts I and II.

White's sole contention is that the evidence presented at trial was insufficient to support a 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, we note the victim's testimony indicating that White and two others entered a bar with intent to rob it. Additionally, videotape footage shows a shotgun used during the robbery, as well as the testimony from the victim describing the shotgun's characteristics. Further, a wig identified in the commission of the crime was found at White's home pursuant to a search warrant. During the robbery, the videotape showed an assailant reaching into the cash register and grabbing and leaving behind a white plastic container. Testimony from two print examiners determined White's fingerprints were on the container. It was well within the fact finder's authority to find White's explanation that his fingerprints were found because "he sells drugs at the bar," was not credible or exculpatory.

The finder of fact could reasonably infer from the evidence presented that White committed robbery while in possession of a firearm, conspiracy to commit robbery and burglary with possession of a firearm. It is for the finder of fact to determine the weight and credibility to give conflicting testimony, and the fact finder's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.²

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).

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).

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

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

cc: Eighth Judicial District Court Dept. 16, 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