

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROGER E. TIMOTHY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46102

**FILED**

**SEP 14 2006**

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of two counts of possession of a credit or debit card without cardholder's consent. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge. The district court adjudicated appellant Roger Timothy a habitual criminal and sentenced him to two concurrent terms of ten years to life in prison.

Timothy's sole contention on appeal is that the evidence presented at trial was insufficient to support his convictions because the State failed to prove he possessed the credit cards at issue. Our review of the record, however, reveals sufficient evidence to establish Timothy's guilt beyond a reasonable doubt as determined by a rational trier of fact.<sup>1</sup>

At the trial, Detective Thomas testified that his booking sergeant notified him that Timothy possessed credit cards not in his name. Thomas further testified that he removed the credit cards from the bag containing the property taken from Timothy when he was booked, then went to interview Timothy. Thomas testified that he advised Timothy of

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<sup>1</sup>See McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

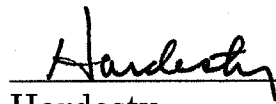
his Miranda<sup>2</sup> rights and Timothy waived them. Thomas then showed Timothy the credit cards and asked him if the cards were in his possession when he was arrested. Timothy said they were. The credit card holder, Eva Powers, testified that she never gave Timothy permission to possess her credit cards.

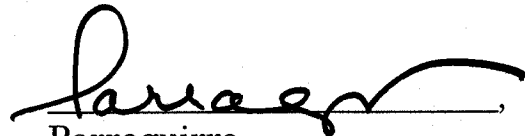
We conclude that a rational juror could reasonably infer from this evidence that Timothy possessed Eva Powers's credit cards without her consent.<sup>3</sup> It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.<sup>4</sup>

Having considered Timothy's contention and concluded it lacks merit, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

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<sup>2</sup>Miranda v. Arizona, 384 U.S. 436 (1966).

<sup>3</sup>See NRS 205.690(2), (3).

<sup>4</sup>See Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); see also McNair, 108 Nev. at 56, 825 P.2d at 573.

cc: Hon. Douglas W. Herndon, District Judge  
Paul E. Wommer  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk