

IN THE SUPREME COURT OF THE STATE OF NEVADA

HAROLD CHRISTOPHER FOSTER, III,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46169

**FILED**

**MAY 03 2006**

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, entered pursuant to a jury verdict, of one count of being an ex-felon in possession of a firearm. Second Judicial District Court, Washoe County; Janet J. Berry, Judge. The district court sentenced appellant Harold Christopher Foster to serve a prison term of 12 to 48 months.

Foster's sole contention is that the evidence presented at trial was insufficient to support his conviction for being an ex-felon in possession of a firearm.<sup>1</sup> He specifically asserts that the evidence was

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<sup>1</sup>Although we have elected to file the fast track statement submitted by Foster, we note that it does not comply with the requirements of the Nevada Rules of Appellate Procedure. Specifically, Foster was required to prepare and file an appendix with the fast tract statement. See NRAP 3C(e)(2). Counsel is cautioned that failure to comply with the requirements for fast track criminal appeals may result in the fast tract statement being returned, unfiled, to be correctly prepared. See NRAP 32(c). Failure to comply may also result in the imposition of sanctions by this court. NRAP 3C(n).

insufficient because no firearm was found and presented to the jury. We disagree.

To prove that a defendant is guilty of being an ex-felon in possession of a firearm, the State must show that he is in fact an ex-felon and that he possessed or exercised dominion and control over a firearm.<sup>2</sup> The standard of review for a challenge to the sufficiency of the evidence to support a criminal conviction is "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."<sup>3</sup>

Here, the parties stipulated that Foster is indeed a convicted felon and two witnesses testified that Foster took a handgun away from Faizah Elliot and left her apartment with it. Consequently, we conclude that a rational juror could reasonably infer that Foster is an ex-felon who had possession of a firearm. It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be


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<sup>2</sup>See NRS 202.360(1); Woodall v. State, 97 Nev. 235, 627 P.2d 402 (1981); Beets v. Sheriff, 92 Nev. 196, 547 P.2d 666 (1976).

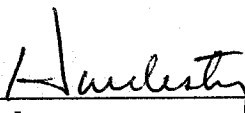
<sup>3</sup>McNair v. State, 108 Nev. 53, 56 825 P.2d 571, 573 (1992) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

disturb on appeal where, as here, substantial evidence supports the verdict.<sup>4</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.<sup>5</sup>

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

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

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

cc: Hon. Janet J. Berry, District Judge  
Van Ry Law Offices, LLP  
Attorney General George Chanos/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk  
Harold Christopher Foster, III

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

<sup>5</sup>Because Foster is represented by counsel in this matter, we decline to grant him permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to Foster unfiled all proper person documents he has submitted to this court in this matter.