

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT WILLIAM ELLIOTT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46280

FILED

MAY 30 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of two counts of robbery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Robert William Elliott to serve four consecutive prison terms of 72-180 months and ordered him to pay \$6,384.00 in restitution.

First, Elliott contends that the State failed to prove that there were two distinct acts of robbery because "[p]ersonal property was taken only once from the Dollar Tree Store." Elliott claims "[t]here was in this case only one act of Robbery," not two. Initially, we note that Elliott failed to object to or challenge the sufficiency of the criminal information in the district court, and as we have repeatedly stated, failure to raise an objection with the district court generally precludes appellate

consideration of an issue.¹ Nevertheless, our review of the issue reveals that no plain error occurred and that Elliott's contention is without merit.²

We conclude that the two counts of robbery with the use of a deadly weapon were not impermissibly redundant. On appeal, Elliott concedes that there were two victims. In fact, a review of the trial transcript reveals that two store employees, a cashier and an assistant manager, were subject to force and the threat of violence by Elliott and his accomplice. This court has affirmed such convictions in the past, holding that evidence of the unlawful taking of an employer's property, by use of force or fear directed at two employees, both of whom were in joint possession and control of the property taken, supports a conviction for two separate counts of robbery.³ As such, multiple robberies may be charged where, as here, there are multiple victims involved in a single event. In such circumstances, multiple robbery convictions in a single trial do not violate the proscriptions against double jeopardy and are not impermissibly redundant.⁴ Therefore, we conclude that Elliott's contention is without merit.

¹See Rippo v. State, 113 Nev. 1239, 1259, 946 P.2d 1017, 1030 (1997).

²See NRS 178.602 ("Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court."); Pray v. State, 114 Nev. 455, 459, 959 P.2d 530, 532 (1998).

³See Klein v. State, 105 Nev. 880, 885, 784 P.2d 970, 973-74 (1989); see also NRS 200.380(1) (defining "robbery").

⁴See, e.g., Commonwealth v. Levia, 431 N.E.2d 928, 929-31 (Mass. 1982) (upholding multiple robbery convictions where defendant entered convenience store and forcibly obtained money from cash register operated by one employee and gas pump receipts collected by another employee); People v. Wakeford, 341 N.W.2d 68, 75 (Mich. 1983) (upholding multiple

continued on next page . . .

Second, Elliott contends that the evidence presented at trial was insufficient to support the jury's finding that he was guilty beyond a reasonable doubt of using a deadly weapon. 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.⁵ In particular, we note that the cashier testified that she saw Elliott holding a metallic object that appeared to be a knife, approximately 4-5 inches long, and that he held it up to the store manager's neck as he forced her to open the safe. The assistant manager testified that during the robbery, although she did not see a knife, "[t]he male person kept telling me to shut up or he was going to stab me in the neck." Elliott's girlfriend at the time testified that he told her upon his return to their apartment that he used a knife during the commission of the robbery. Elliott's accomplice also testified at his trial, and stated that Elliott told him that he had the knife in his possession during the robbery.

Based on the above, we conclude that the jury could reasonably infer from the evidence presented that Elliott used a deadly

... continued

robbery convictions where defendant entered grocery store armed with sawed-off shotgun and took money belonging to store from two employees), called into doubt on other grounds by People v. Baskin, 378 N.W.2d 535 (Mich. Ct. App. 1985); Commonwealth v. Rozplochi, 561 A.2d 25, 28-30 (Pa. Super. Ct. 1989) (upholding multiple robbery convictions where defendant threatened two employees at financial institution and obtained money from safe).

⁵See 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)).

weapon during the commission of the robbery.⁶ 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.⁷ Moreover, we note that circumstantial evidence alone may sustain a conviction.⁸ Therefore, we conclude that the State presented sufficient evidence to sustain the deadly weapon enhancement.

Having considered Elliott's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.⁹

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

⁶See NRS 193.165(5)(b).

⁷See 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).

⁸See Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003).

⁹Because Elliott 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 Elliott unfiled all proper person documents he has submitted to this court in this matter.

cc: Hon. Steven R. Kosach, District Judge
Van Ry Law Offices, LLP
Robert William Elliott
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk