

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY RICHARDSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46763

FILED

JUL 10 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of conspiracy to commit robbery, robbery with the use of a deadly weapon, and battery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Charles M. McGee, Judge. The district court sentenced appellant Gregory Richardson to serve a prison term of 14-48 months for the conspiracy, a concurrent prison term of 36-120 months for the robbery plus an equal and consecutive prison term for the use of a deadly weapon, and a consecutive prison term of 24-72 months for the battery.

Richardson contends that the State failed to present sufficient evidence at the preliminary hearing to establish probable cause to bind him over to the district court. Specifically, Richardson argues that the criminal information should have been dismissed because the State failed to corroborate information provided by his accomplices.¹ Richardson

¹NRS 175.291(1) provides –

A conviction shall not be had on the testimony of
an accomplice unless he is corroborated by other

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raised this issue in a pretrial petition for a writ of habeas corpus. Additionally, Richardson contends, for the same reason, that the evidence adduced at trial was insufficient to support the jury's finding that he was guilty beyond a reasonable doubt. At trial, the only accomplice to testify was Byroneasha Clark. We disagree with Richardson's contentions.

The probable cause determination has two components: (1) that an offense has been committed; and (2) that the accused committed the offense.² Probable cause to support a criminal charge "may be based on slight, even 'marginal' evidence, because it does not involve a determination of the guilt or innocence of an accused."³ "To commit an accused for trial, the State is not required to negate all inferences which might explain his conduct, but only to present enough evidence to support a reasonable inference that the accused committed the offense."⁴ "Although the [S]tate's burden at the preliminary examination is slight, it

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evidence which in itself, and without the aid of the testimony of the accomplice, tends to connect the defendant with the commission of the offense; and the corroboration shall not be sufficient if it merely shows the commission of the offense or the circumstances thereof.

²NRS 171.206.

³Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980) (internal citations omitted).

⁴Kinsey v. Sheriff, 87 Nev. 361, 363, 487 P.2d 340, 341 (1971).

remains incumbent upon the [S]tate to produce some evidence that the offense charged was committed by the accused.”⁵

Based on our review of the record, we conclude that the State presented enough evidence to support a reasonable inference that Richardson committed the crimes of conspiracy to commit robbery, robbery with the use of a deadly weapon, and battery with the use of a deadly weapon. In particular, we note that prior to the preliminary hearing, Byroneasha Clark provided a statement to police wherein she implicated herself and her accomplices, including Richardson. In her statement, Clark provided details about the offense. The information Clark provided was presented by the State at the preliminary hearing through the testimony of the police officers involved in her custodial interview, and corroborated by other witnesses. Another accomplice, Ryan Davis, also provided information to the police that was corroborated by other evidence.

A neighbor of the victim, Ronda Jones, identified the vehicle driven by the perpetrators. Jones wrote down the license plate number of the vehicle; the vehicle was later discovered to be registered to Clark. Jones testified that three black males exited the vehicle while the female remained behind, seated in the driver’s side of the running vehicle. Jones described the direction the three men headed, which lead them to the home of the victim. Approximately 15 minutes later, when the three men returned, Jones testified that “it sound[ed] like they were running to me, laughing.” Jones accurately described the three men as 18-25 years of age,

⁵Woodall v. Sheriff, 95 Nev. 218, 220, 591 P.2d 1144, 1144-45 (1979).

thin-to-medium in build, dressed in black. Jones' testimony was consistent with the information provided by both Davis and Clark.

The victim testified at the preliminary hearing and further corroborated the information provided by Clark. The victim stated that he was outside the front of his house with his 3-year-old daughter when he was approached by "about four" men who demanded his wallet. He testified that they were all "African-American," and similar to Jones' testimony, that possibly two of them were wearing "some sort of bandana and caps." One of the men was carrying a semi-automatic weapon. The victim ran to protect his daughter and was shot, once, in his lower back just above his buttocks. Clark informed the police that when the men came running back and got into her vehicle, they were laughing because they believed that Richardson shot the victim in the buttocks.

Shannon Merges, a senior crime analyst for LVMPD, testified that during a search of Richardson's bedroom, a partially used box of Federal .22 caliber cartridges were found in a closet. Detective Edward La Neve testified that during questioning, Davis stated that Richardson possessed a .22 caliber during the crime. A .22 caliber Federal cartridge case was found at the scene of the crime. Dinnah Caluag of the LVMPD forensic lab, an expert in the area of firearms and tool marks examinations, testified that the cartridge case found at the scene of the crime was consistent with the ammunition found in Richardson's closet. Finally, Lieutenant Theodore Snodgrass testified that Richardson admitted to possessing the ammunition, stating, "He said something about that he had been holding them for somebody. . . . That he was holding the shells for someone else."

Based on all of the above, we conclude that the district court did not err in denying Richardson's pretrial petition for a writ of habeas corpus. According to the district court criminal minutes, the district court found that the State presented the requisite slight or marginal evidence, including sufficient evidence corroborating the information provided by the accomplices. Moreover, all of the evidence detailed above was presented by the State during the trial, and therefore, the record reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact.⁶ Specifically, we conclude that there was sufficient corroborating evidence to sustain conviction. Even after eliminating the inculpatory testimony of Richardson's accomplice, the evidence offered by the State specifically linked him to the crime.⁷ 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.⁸ Moreover, we note that "corroborative evidence may be either direct or circumstantial," and

⁶See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also NRS 200.380(1); NRS 200.481.


⁷See Austin v. State, 87 Nev. 578, 585, 491 P.2d 724, 728 (1971) (in order to determine if there is sufficient corroborating evidence, this court "must eliminate from the case the evidence of the accomplice, and then examine the evidence of the remaining witness or witnesses with the view to ascertain if there be inculpatory evidence") (quoting People v. Shaw, 112 P.2d 241, 255 (Cal. 1941)).

⁸See 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).

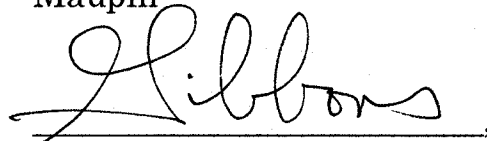
circumstantial evidence alone may sustain a conviction.⁹ Therefore, we conclude that the State presented sufficient evidence to sustain the conviction.

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

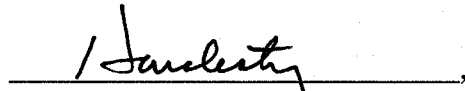
ORDER the judgment of conviction AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Charles M. McGee, Senior Judge
Hon. Kathy A. Hardcastle, Chief Judge
Law Office of Betsy Allen
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁹Heglemeier v. State, 111 Nev. 1244, 1250, 903 P.2d 799, 803 (1995);
Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003).