

IN THE SUPREME COURT OF THE STATE OF NEVADA

LATEEFA STARKS A/K/A LATEEFA
MIRSAID STARKS A/K/A LATEEFA
STARKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47183

FILED

NOV 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, entered pursuant to a jury verdict, of two counts of burglary, two counts of conspiracy to commit robbery, and two counts of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; David Wall, Judge. The district court sentenced appellant Lateefa Starks to serve various consecutive and concurrent terms of imprisonment, amounting to 96 to 240 months. The district court also ordered her to pay restitution. Starks presents two issues for our review.

First, Starks contends that her confession should have been suppressed because it was not given voluntarily. She claims that prior to making her statement, Detective John Herring yelled at her, would not let her use the bathroom, and did not read the Miranda¹ warnings to her. She further claims that Detective Herring told her that if she confessed, she would not be in any trouble because Tolliver Armstrong and Matthew

¹Miranda v. Arizona, 384 U.S. 436 (1966).

Davis had already confessed; it would be easier on her if she said she was sorry; and he informed her of Davis's statements.

Starks did not object to the admission of her confession. Failure to raise an objection with the district court generally precludes appellate consideration of an issue.² However, we may address an alleged error if it was plain and affected the appellant's substantial rights.³

Our review of the record reveals that Detective John Herring testified that he encountered Starks while executing a search warrant on Armstrong's residence. He advised Starks of her Miranda rights while she was in the house. Starks stated that she understood and waived her rights. They then went outside to an unmarked police car where Starks made a recorded statement. Detective Herring testified that he did not coerce Starks into making the statement. A transcript of the statement was entered into evidence. The transcript indicates that it took five minutes to record the statement. Based on these circumstances and our review of the statement itself, we conclude that no error occurred.⁴

Second, Starks contends that insufficient evidence was adduced at trial to support her convictions for burglary, conspiracy, and

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

³See NRS 178.602.

⁴See Silva v. State, 113 Nev. 1365, 1369, 951 P.2d 591, 593 (1997) ("this court uses a totality of the circumstances test to determine whether a confession was voluntary or obtained by physical intimidation or psychological pressure" (internal quotation marks omitted)); Passama v. State, 103 Nev. 212, 214, 735 P.2d 321, 323 (1987) (discussing factors to be considered when determining the voluntariness of a statement).

robbery with the use of a deadly weapon. 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.”⁵

Here, the jury heard evidence that Armstrong and Davis had confessed to their involvement in the robberies at Big Dogs Café and Casino and Charlie's Saloon. Starks had let Armstrong and Davis out of her car before she arrived at Big Dogs. To enter Big Dogs, patrons must show their face to a camera located outside of the bar, and the bartender must unlock the door using a buzzer. After entering Big Dogs, Starks ordered a drink at the bar and was seen talking on her cell phone. Davis had called her and she told him how many people were in the bar. As Starks was leaving the bar, Armstrong and Davis were entering it. They used handguns to rob the bartender. The bartender testified that he did not buzz Armstrong and Davis in. Starks testified that after leaving Big Dogs, she, Armstrong, and Davis drove off.

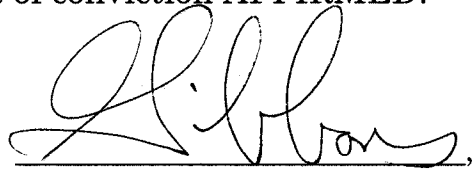
Starks subsequently entered Charlie's Saloon, where she ordered a beer and then went to the bathroom. While she was in the bathroom, she talked to Davis on her cell phone and she told him how many people were in the bar. Approximately five minutes after Starks left the saloon, Armstrong and Davis entered it. They used handguns to rob the bartender. When Armstrong and Davis returned to the car, the three off them drove off.

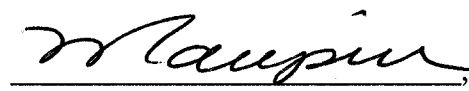
⁵McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).


We conclude that the jury could reasonably infer from the evidence presented that Starks conspired with Armstrong and Davis to rob Big Dogs and Charlie's Saloon with the use of deadly weapons, entered both establishments with the intent to commit felonies therein, and aided in both robberies by providing information that contributed to the robbers' success.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, substantial evidence supports the verdict.⁷

Having considered Starks' contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Maupin


_____, J.
Douglas

⁶See NRS 205.060(1); NRS 200.380(1); NRS 199.480; NRS 193.165(1); NRS 195.020; Garner v. State, 116 Nev. 770, 780, 6 P.3d 1013, 1020 (2000) (defining conspiracy and noting that it "is usually established by inference from the parties' conduct"), overruled on other grounds by Sharma v. State, 118 Nev. 648, 56 P.3d 868 (2002).

⁷See Bolden v. State, 97 Nev. 71, 624 P.20 (1981); see also McNair, 108 Nev. at 56, 825 P.2d at 573.

cc: Hon. David Wall, District Judge
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