

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN ZAMBRANO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 47472

**FILED**

**MAR 06 2007**

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of resisting a public officer while in possession of a deadly weapon (count I), assault on a police officer with the use of a deadly weapon (count II), and attempted murder with the use of a deadly weapon (count III). Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Steven Zambrano to serve a prison term of 12 to 48 months for count I, a concurrent prison term of 12 to 72 months for count II, and a concurrent prison term of 24 to 240 months, with an equal and consecutive prison term for the use of a deadly weapon, for count III.

Zambrano's sole contention is that the State presented insufficient evidence in support of the convictions. Specifically, Zambrano argues that there is no evidence that he intended to kill Las Vegas Police Officers Manuel Rivera, Joseph Emery, and Darrell Hixson because the bullets he shot from the apartment appeared three feet from the officers, and the officers were wearing bulletproof vests and ballistic shields. Likewise, Zambrano contends that there was no evidence that he assaulted the police officers because Officer Hixson did not testify that he was afraid and Officers Rivera and Emery did not testify at trial. Finally,

Zambrano argues that there is no evidence that he resisted Deputy Constable Thomas Cotton with the use of a deadly weapon given that Zambrano only pointed the gun at his own head. Our review of the record on appeal reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact.<sup>1</sup>

In particular, Deputy Cotton testified that he knocked on Zambrano's door to serve an eviction notice. Zambrano answered the door with a beer in one hand and a gun in the other. Deputy Cotton drew his weapon and ordered Zambrano to drop the gun. Zambrano refused, pointing the gun at his own head and stating the only way he was leaving the apartment "was either to hell or to jail." Zambrano then retreated into the back bedroom, refusing Deputy Cotton's command to leave the premises.

Las Vegas Police Officer Darrell Hixson responded to the scene. Officer Hixson testified that Zambrano would not leave the apartment so he and Officers Rivera and Emery huddled together and carefully approached the apartment window, in order to place a stun device inside the apartment. As the officers backed away from the window, Officer Hixson heard two gun shots and observed bullets shatter the glass of the window and pass one to two feet from Officer Hixson's face. Officer Hixson testified that, although the officers were wearing protective gear, their necks, jaws, shoulders, and hips were exposed. Las Vegas Police Office Carlos Acosta also described the shooting, explaining that Officer Hixson and two other police officers were one to two feet from

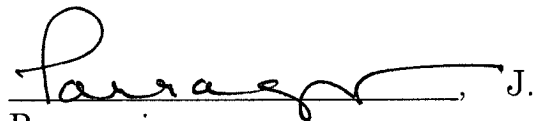
---

<sup>1</sup>See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998).


the apartment window, when Officer Acosta heard shots being fired and observed glass from the window breaking out towards the officers. The jury could reasonably infer from the evidence presented that Zambrano assaulted and attempted to kill Officers Hixson, Rivera and Emery with the use of a firearm and, also, resisted Deputy Cotton with a dangerous weapon.<sup>2</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>3</sup>

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

ORDER the judgment of conviction AFFIRMED.

  
Parraguirre J.

  
Hardesty J.

  
Saitta J.

---

<sup>2</sup>See NRS 200.471; NRS 200.010; NRS 193.330(1); NRS 193.165(1); NRS 199.280(1). The amended information alleged in part that Zambrano committed one count each of attempted murder with the use of a deadly weapon and assault on a police officer with the use of a deadly weapon "by firing at the said Manuel Rivera, Joseph Emery, and/or Darryl Hixson."

<sup>3</sup>See 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).

cc: Hon. Stewart L. Bell, District Judge  
Keith C. Brower  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk