

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY LEIGH MILLER A/K/A JERRY
L. MILLER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47707

FILED

JAN 18 2007

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 of possession of a controlled substance with intent to sell. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge. The district court adjudicated appellant Jerry Leigh Miller as a habitual criminal and sentenced him to serve a prison term of 60 to 150 months.

Miller contends that there is insufficient evidence supporting the conviction. Specifically, Miller argues that "the only evidence that the methamphetamine in question was for the purpose of sale was [the arresting officer's] testimony that he believed the narcotics were not for personal use . . . [and] on cross-examination, [he] admitted he was simply making a judgment call as to whether the dope was for personal use or sale." 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.¹

In particular, we note that the arresting police officer testified at trial that he searched Miller and found \$2,963.00 in cash and a metal tin. Inside the tin were nine small empty plastic bags and five small plastic bags containing a total of 1.76 grams of methamphetamine. The arresting officer explained that, based on his experience in narcotics enforcement, he believed that Miller possessed the methamphetamine for purpose of sale because of the large amount of cash and the manner in which the methamphetamine was packaged.

Miller testified on his own behalf at trial, explaining that the money was proceeds from the sale of a car and the methamphetamine was for his personal use. Despite Miller's testimony, the jury could reasonably infer from the evidence presented that he possessed the methamphetamine for the purpose of sale.² 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.³


¹See 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).

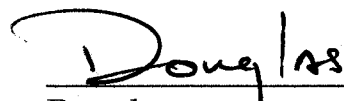
²See NRS 453.337(1).

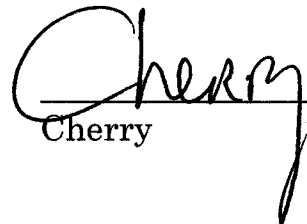
³See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

Having considered Miller's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Kenneth C. Cory, District Judge
Paul E. Wommer
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk