

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARLOS RIVERA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 47726

**FILED**

MAR 06 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, entered pursuant to a jury verdict, of one count of placing graffiti on or otherwise defacing property with the intent to promote a criminal gang, and one count of battery with the use of a deadly weapon with the intent to promote a criminal gang. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Carlos Rivera to serve two consecutive prison terms 12 to 30 months, to run concurrently with two consecutive prison terms of 24 to 60 months.

Rivera contends that the evidence presented at trial was insufficient to support his convictions. However, our review of the record reveals sufficient evidence to establish Rivera's guilt beyond a reasonable doubt as determined by a rational trier of fact.<sup>1</sup>

In particular, we note that the jury heard testimony that Rivera was one of three Hispanic males who spray-painted graffiti on two highway overpasses, the Stewart Market, the Lahoya Mobile Home Park, a wall behind an Albertson's grocery store, and a white Chevolet cargo

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<sup>1</sup>See McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (citing Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

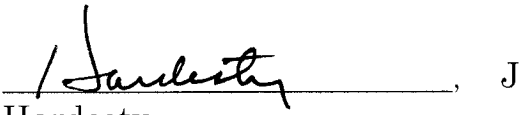
van. Rivera was a member of the Eighteenth Street Gang. There was also evidence that he painted the graffiti to represent his gang, and that he battered a witness to the crime with a set of jumper cables. The aggregated estimates for the cost of cleaning up the graffiti exceeded \$14,100.00.

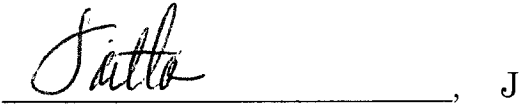
We conclude that a rational juror could reasonably infer from this evidence that Rivera placed graffiti on property and battered the victim with a deadly weapon with the intent to promote a criminal gang.<sup>2</sup> It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.<sup>3</sup>

Having considered Rivera's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

 J.  
Parraguirre

 J.  
Hardesty

 J.  
Saitta

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<sup>2</sup>See NRS 193.168(1); NRS 200.481(1)(a); NRS 206.330(1)(c).

<sup>3</sup>See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair, 108 Nev. at 56, 825 P.2d at 573.

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