


IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL PATRICK SHAMMOT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47943

FILED

AUG 07 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of first-degree murder and robbery, each with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Daniel Shammot to serve concurrent and consecutive terms totaling life in prison without the possibility of parole.

On appeal, Shammot argues there was insufficient evidence to support his convictions because the State's key witness admitted at trial that she lied when she testified at the preliminary hearing. "The relevant inquiry for this Court 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.'"¹ Further, it is for the jury to determine the degree of weight and credibility to give testimony, and their decision will not be disturbed on appeal where

¹Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

there is substantial evidence to support the verdict.² Here, the jury was capable of assessing whether the witness was credible. The witness testified that she saw Shammot and another man strike the victim with baseball bats and observed the victim with blood on his face and labored breathing. Testimony also established that Shammot had previously talked about obtaining money from the victim and that just after the victim's death Shammot was in possession of a large amount of cash. This testimony, along with the other evidence adduced at trial, was sufficient to support the guilty verdict.

Shammot also argues that the district court violated his Sixth Amendment rights when the district court told a State's witness, who was testifying under a grant of immunity, that nothing would happen to her if she "[did] her best to be truthful today" and refused the witness' request to have her counsel present while she testified. He argues that this relieved the witness of her obligation to testify truthfully and impaired her ability to do so.

Shammot did not object to the admonition or the ruling at trial. "Generally, failure to raise an issue below bars consideration on appeal."³ However, this court may address unpreserved claims of error if they are plain and affected the defendant's substantial rights.⁴ We conclude that no such error occurred here. Shammot's reliance on a

²Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).


³State v. Taylor, 114 Nev. 1071, 1077, 968 P.2d 315, 320 (1998).


⁴See NRS 178.602; Cordova v. State, 116 Nev. 664, 666, 6 P.3d 481, 482-83 (2000).

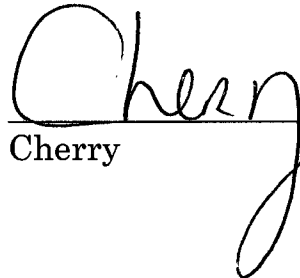
Fourth Circuit Court of Appeals case, Hoover v. State of Md.,⁵ to support his argument is misplaced. He does not assert that his counsel was unable to fully cross-examine the witness, and our review of the record indicates that counsel's cross-examination was thorough, particularly in regard to the witness' prior inconsistent statements. Further, Shamnot fails to demonstrate that after the district court's admonition and refusal to allow the witness' counsel to be present, the witness was unable or unwilling to testify truthfully or gave demonstrably false testimony.

Having reviewed Shamnot's arguments and concluded he is not entitled to relief, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

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

⁵714 F.2d 301 (4th Cir. 1983).