


IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES FRANCISCO NELSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48320

FILED

SEP 07 2007

JUANETTE 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 trafficking in a controlled substance (counts I, IV), manufacture or compounding of a controlled substance (counts II, V, VII), possession of a controlled substance (count III), and conspiracy to manufacture a controlled substance (count VIII). Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant James Francisco Nelson to serve concurrent prison terms of 10 years to life for counts I and IV, 60-180 months for counts II, V, and VII, and 12-48 months for counts III and VIII.

Nelson's sole contention on appeal is that the evidence presented at trial was insufficient to support the jury's finding that he was guilty beyond a reasonable doubt on all counts. The charges were initially brought after the search of residences at 5346 East Lake Mead on December 12, 2000, and 1309 Dorothy and 1300 Elizabeth on January 14, 2001. Along with Nelson, three residents at those addresses were charged and convicted as a result of the investigation – Candiss Lohmeyer (at Lake Mead), John Bradberry (at Dorothy), and Tony Castagno (at Elizabeth). Nelson points out that (1) at the time the searches were executed, the three witnesses/co-conspirators claimed responsibility for the illegal items

discovered in their apartments, and (2) at his trial, Bradberry and Castagno did not recall making statements inculcating Nelson to the investigating officers.

Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact.¹ In particular, we note that Detective Joseph Pannullo of the Las Vegas Metropolitan Police Department testified and listed the number of items used in the manufacturing of methamphetamine that were discovered during a search of the East Lake Mead residence. Detective Pannullo stated that as soon as he opened the door to the apartment, "I could smell a strong chemical odor, which through my training and experience I knew to be related to a methamphetamine lab." Methamphetamine was also discovered during a search of Nelson's vehicle. Lohmeyer, Nelson's girlfriend at the time, testified that he lived with her at the East Lake Mead residence. Lohmeyer's son, Steven, who was living with them, testified that he witnessed Nelson using, possessing, and "cooking" methamphetamine in the apartment. Nelson's clothes were found scattered throughout the apartment, and a receipt for rent, made out to both Nelson and Lohmeyer, was admitted into evidence. Approximately 52 grams of methamphetamine were recovered. Additionally, Nelson's fingerprints were found in the apartment.

Sergeant Eric Lloyd testified that after the SWAT team gained access to the Dorothy residence, he came into contact with Bradberry.

¹See Mason v. State, 118 Nev. 554, 559, 51 P.3d 521, 524 (2002) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

According to Sergeant Lloyd, Bradberry informed him that there was a methamphetamine lab in the apartment and that Nelson was teaching him how to manufacture methamphetamine. A search of the Dorothy residence revealed approximately 375 grams of methamphetamine and numerous items commonly used in the manufacturing of methamphetamine. Additionally, Nelson's fingerprints were found at the scene.

Finally, Officer Joe Emery testified that after the SWAT team gained access to the residence on Elizabeth, he conducted a search of the premises. Approximately 17 grams of methamphetamine and several chemicals commonly used in the manufacturing of methamphetamine were discovered. Officer Emery also encountered Castagno at the residence, and according to Officer Emery, Castagno waived his rights pursuant to Miranda and told him that Nelson was teaching him how to "cook" methamphetamine. Nelson's fingerprints were also found in the apartment.

Based on the above, we conclude that the jury could reasonably infer from the evidence presented that Nelson committed the crimes beyond a reasonable doubt.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, sufficient evidence supports the verdict.³ Moreover, we note that circumstantial evidence

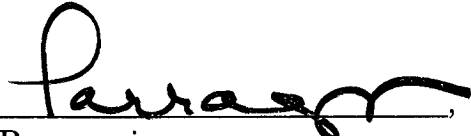
²See NRS 453.3385; NRS 453.336; NRS 453.322; NRS 453.321.

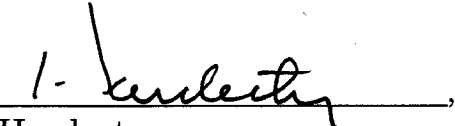
³See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).


alone may sustain a conviction.⁴ Therefore, we conclude that the State presented sufficient evidence to support the jury's verdict.

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

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

⁴See Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003).