

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC JON NEES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48432

FILED

APR 26 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 aiding and abetting in the commission of a robbery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Bridget Robb Peck, Judge. The district court sentenced appellant Eric Jon Nees to serve two consecutive prison terms of 72 to 180 months.

Nees contends that the evidence presented at trial was insufficient to support his conviction for aiding and abetting in the commission of a robbery with the use of a deadly weapon. In particular, he claims that the record does not support findings that he promoted, encouraged, or instigated the commission of the robbery; had knowledge that the robber was armed; and was able to exercise control over the firearm. Our review of the record on appeal, however, reveals sufficient evidence to establish Nees' guilt beyond a reasonable doubt as determined by a rational trier of fact.¹

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

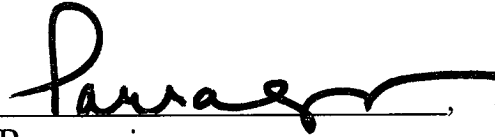
We note that the jury heard evidence that Nees approached the victim outside of his residence and offered to sell him methamphetamine. When the victim accepted the offer, Nees asked him if he had any money and the victim responded that he had recently purchased methamphetamine and did not have much money. After entering the victim's house, Nees told the victim to set up his scale while he went to get his partner. Thereafter, Nees brought two men into the victim's house. One walked to the back of the house and into the bedroom "to see if it was clear," and the other pulled out a gun and ordered the victim to the ground. As the victim was getting down, he observed that Nees had a normal, business-like expression on his face. The gunman went to the cupboard where the victim stored his drugs and retrieved them. He then instructed Nees to get the victim's wallet, and Nees took the victim's wallet from him. Following the completion of the robbery, Nees left the house with his two companions.

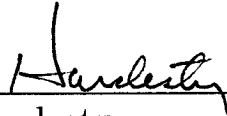
We conclude that a rational juror could reasonably infer from the evidence adduced at trial that Nees aided in the commission of the robbery, had knowledge of the use of the gun, and benefited from the use of the gun.² It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on


²See NRS 193.165; NRS 195.020; NRS 200.380(1); Jones v. State, 111 Nev. 848, 852, 899 P.2d 544, 546 (1995); Anderson v. State, 95 Nev. 625, 630, 600 P.2d 241, 244 (1979).

appeal where, as here, substantial evidence supports the verdict.³
Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

cc: Hon. Patrick Flanagan, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

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