

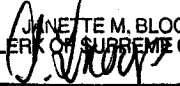
IN THE SUPREME COURT OF THE STATE OF NEVADA

DERECK VINCENT FESOLAI A/K/A
DERECK V. FESOLAI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48901

FILED

JUL 17 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 one count of home invasion. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Dereck Vincent Fesolai to a prison term of 12 to 48 months, but then suspended execution of the sentence and placed Fesolai on probation for an indeterminate period not to exceed 3 years.

Fesolai's sole contention is that there is insufficient evidence in support of his conviction. Specifically, Fesolai argues that he only entered his ex-girlfriend's mother's home out of concern for the safety and welfare of his son. 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

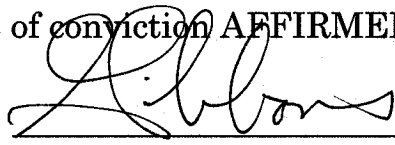
In particular, we note that the victim testified that she repeatedly informed Fesolai that she did not want to see him and that he did not have permission to enter her mother's home, where the victim and

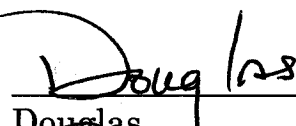
¹See McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (citing Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

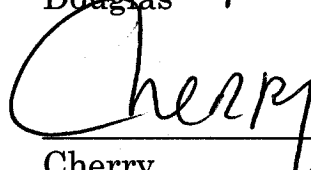
her son were residing. Nonetheless, Fesolai came to the victim's mother's home, kicked the front door in, and began breaking furniture in the house. Fesolai and his mother testified at trial, admitting that Fesolai forcibly entered the victim's mother's home against the victim's express wishes. Although Fesolai argued that the entry was justified out of concern for his son's safety, we conclude that a rational juror could reasonably infer from the evidence adduced at trial that Fesolai committed the charged offense of home invasion.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

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

²See NRS 205.067(1) (a person is guilty of home invasion if they forcibly enter an inhabited dwelling without the permission of the lawful resident).

³See 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
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