

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARLOS MAXIMONO PEREZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50337

FILED

JUL 11 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of conspiracy to commit robbery, battery with the intent to commit a crime, robbery, and burglary. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge. The district court adjudicated appellant Carlos Maximono Perez as a habitual criminal, sentenced him to serve four concurrent prison terms of 60-215 months, and ordered him to pay \$2,885.48 in restitution jointly and severally with his codefendant.

Perez contends that the evidence presented at trial was insufficient to support the jury's finding that he was guilty beyond a reasonable doubt. Specifically, Perez claims that the State failed to prove the corpus delicti of the crime prior to the admission of his "alleged" confession and, absent his confession, the evidence of his guilt was "speculative or untrustworthy." Perez further argues that, even with his confession, "the most that he could be found guilty of is being a passenger in a stolen vehicle." We disagree.

Initially, we note that Perez misapprehends the corpus delicti rule. Perez's argument is based on the mistaken belief that the identity of

the perpetrator is an element of the corpus delicti and that, absent his confession, the independent evidence must in itself demonstrate that he committed the crimes charged. Perez concedes that the victim was beaten, his vehicle was stolen, and that items within the vehicle were pawned, and Perez proceeds to ask, “What does that have to do with the Appellant here?” This court has long held, however, that the identity of the perpetrator is not an element of the corpus delicti.¹ “The corpus delicti of a crime means the body or the substance of the crime charged” and consists of an act and the criminal agency of the act.²

Additionally, our review of the record on appeal reveals sufficient evidence to satisfy the corpus delicti rule³ and establish guilt beyond a reasonable doubt as determined by a rational trier of fact.⁴ In particular, we note that prior to the admission of Perez’s inculpatory statement to police, the victim testified that he was attacked and beaten by two individuals who then drove away in his truck. Inside the truck were the victim’s work tools and wedding rings. After the attack, the victim was unable to provide a description of his attackers, however, at

¹See State v. Fouquette, 67 Nev. 505, 531, 221 P.2d 404, 418 (1950).

²State v. Teeter, 65 Nev. 584, 618, 200 P.2d 657, 674 (1948) (internal citation omitted), overruled in part on other grounds by Application of Wheeler, 81 Nev. 495, 406 P.2d 713 (1965).

³See generally Doyle v. State, 112 Nev. 879, 892, 921 P.2d 901, 910 (1996), overruled on other grounds by Kaczmarek v. State, 120 Nev. 314, 333, 91 P.3d 16, 29 (2004).

⁴See Mason v. State, 118 Nev. 554, 559, 51 P.3d 521, 524 (2002) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

trial, he identified Perez as one of the attackers. The store manager of the Rebel Oil Company, where the crime took place, identified Perez and another individual on surveillance videotape and testified that they purchased items moments before the victim entered the store, and then within "about three minutes or so" after exiting, the victim "walked back in bloody and he stated to my cashiers that they took his truck and he got in a fight and was jumped." Additionally, a forensic scientist with the Las Vegas Metropolitan Police Department, specializing in latent print identification, testified that two fingerprints, identified as Perez's, were discovered on the exterior of the passenger door of the victim's vehicle.

The last witness presented by the State was Detective David Miller. Among other things, Detective Miller testified that Perez provided an audiotaped confession during his interrogation. The audiotape and a transcription were admitted into evidence without objection from defense counsel.⁵ The degree to which Perez actually confessed to committing the crimes was challenged by counsel on cross-examination:

Q. Again, Detective, isn't it true that all Mr. Perez admitted to was being at the Rebel Station and jumping in the truck?

A. Without reviewing the whole statement, that sounds about right, yeah.

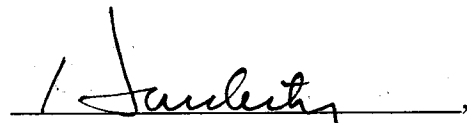
Based on all of the above, we conclude that the jury could reasonably infer from the evidence presented that Perez committed the

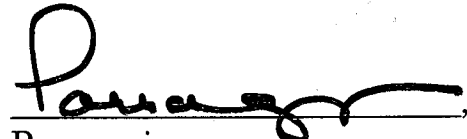
⁵Neither party in this appeal has provided this court with a copy of Perez's alleged confession.

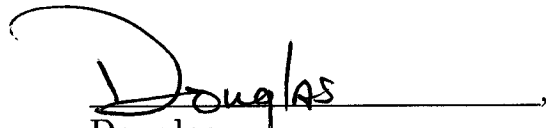
crimes beyond a reasonable doubt.⁶ It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.⁷ Moreover, we note that circumstantial evidence alone may satisfy the corpus delicti rule and sustain a conviction.⁸ Therefore, we conclude that the State presented sufficient evidence to support the jury's verdict.

Having considered Perez's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

⁶See NRS 199.480(1); NRS 200.380(1); NRS 200.400(1); NRS 205.060(1).

⁷See 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).

⁸See West v. State, 119 Nev. 410, 416, 75 P.3d 808, 812 (2003); Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003).

cc: Hon. Sally L. Loehrer, District Judge
Michael H. Schwarz
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk