

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONIO DESHAUN HARPER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50829

FILED

SEP 05 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 larceny from a person and battery with substantial bodily harm. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge. The district court sentenced appellant Antonio Deshaun Harper to serve a term of 24 to 60 months in prison for larceny from a person and an identical concurrent term for battery with substantial bodily injury.

Harper's convictions stem from an incident occurring at a Shell gas station convenience store in Las Vegas. While the victim was parked at the store, two women pulled up beside his vehicle, and as one of the women exited her vehicle, her car door hit the victim's door. Apparently angered by this event, the victim cautioned the woman to be careful. Harper's girlfriend, Kelly Hill, who was parked on the other side of the victim, attempted to calm the victim. The victim approached Hill's car window and spoke to her. The victim spoke to Hill in a stern voice, but he did not curse or threaten harm. Hill testified that she "felt threatened because her young daughter was with her." The victim's actions led to a verbal exchange between the victim and Harper, resulting in Harper hitting the victim, knocking the victim's cell phone out of his hand,

stepping on the victim's leg with sufficient force to break the victim's ankle, and taking the victim's cell phone to prevent him from calling the police.

Harper contends that the evidence presented at trial was insufficient to support the jury's finding of guilt respecting his conviction for larceny from a person. We conclude, however, that sufficient evidence exists to establish guilt beyond a reasonable doubt as determined by a rational trier of fact.¹ The jury could reasonably infer from the evidence presented that Harper was guilty of larceny from a person despite his argument that he did not take the cell phone directly from the victim's person.

Harper further claims that the State failed to prove beyond a reasonable doubt that he did not act in self-defense when he hit the victim because he feared for his girlfriend's safety. However, our review of the record reveals that the State sufficiently disproved Harper's self-defense claim and that a rational jury could find him guilty of battery with substantial bodily harm.

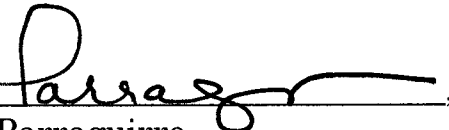
Assessing the weight and credibility of the evidence falls within the exclusive province of the jury, and the jury's verdict will not be disturbed on appeal, where, as here, substantial evidence supports the verdict.²

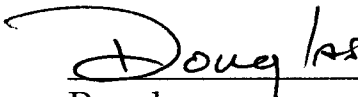
¹See Wilkins v. State, 96 Nev. 367, 374, 609 P.2d 309, 313 (1980); see also Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998).

²See Nolan v. State, 122 Nev. 363, 377, 132 P.3d 564, 573 (2006); McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

Having concluded that Harper's contentions lack merit, we
ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Sally L. Loehrer, District Judge
Law Offices of Cynthia Dustin, LLC
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk