

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL JOSEPH EGAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51651

FILED

FEB 26 2009

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

ORDER OF AFFIRMANCE AND REMANDING TO CORRECT
JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of possession of a dangerous weapon. Eighth Judicial District Court, Clark County; Valorie Vega, Judge. The district court adjudicated Daniel Joseph Egan as a habitual criminal in accordance with NRS 207.010(1)(b)(3) and sentenced him to serve a prison term of 10 to 25 years.

Egan's sole contention on appeal is that insufficient evidence was adduced at trial to support his conviction. Specifically, Egan claims that the evidence at trial failed to prove beyond a reasonable doubt that he knowingly possessed the metal knuckles recovered from his pants pocket. We disagree.

When reviewing a claim of insufficient evidence, this court must determine "whether, after viewing the evidence in the light most favorable to the prosecution, any rational [juror] could have found the essential elements of the crime beyond a reasonable doubt." McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (quoting Jackson v.

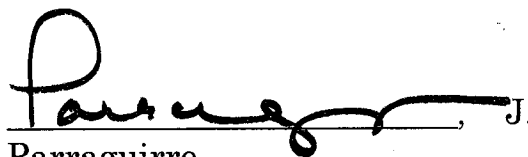
Virginia, 443 U.S. 307, 319 (1979)). It is for the jury to determine the weight and credibility to give to testimony at trial, and the jury's verdict will not be disturbed on appeal where sufficient evidence supports the verdict. See Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); see also McNair, 108 Nev. at 56, 825 P.2d at 573.

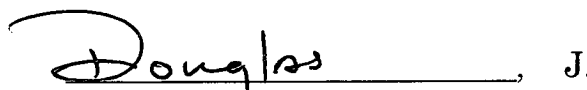
Egan was convicted of violating NRS 202.350(1)(a), which prohibits a person from possessing a dangerous weapon, specifically including metal knuckles. NRS 202.350 is a strict liability crime and mere possession of the weapon is sufficient to establish the violation. Here, the jury heard Metro Detective King testify that he found the metal knuckles in Egan's pants pocket when he searched Egan after placing him under arrest in an unrelated matter.

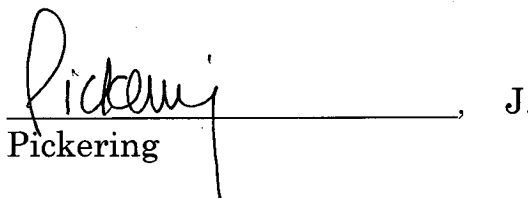
We conclude that a rational juror could find Egan guilty, beyond a reasonable doubt, of the crime of possession of a dangerous weapon. Accordingly, we reject Egan's claim that insufficient evidence exists to support his conviction.

Our review of the judgment of conviction, however, reveals clerical errors. The judgment of conviction states that Egan was convicted pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. Additionally, the judgment of conviction incorrectly states that Egan was found guilty of possession of a dangerous weapon in violation of NRS 207.010. Possession of a dangerous weapon is a violation of NRS 202.350, and Egan was adjudicated as a habitual criminal pursuant to NRS 207.010(1)(b)(3). Therefore, we conclude that this matter must be remanded to the district court for the limited purpose of entering a corrected judgment of conviction. Accordingly, we

ORDER the judgment of conviction AFFIRMED and REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction as directed above.


Parraguirre J.


Douglas J.


Pickering J.

cc: Hon. Valorie Vega, 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