IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK STEVEN SCOTT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51897

FILED

MAR 12 2009

TRACIE K. LINDEMAN
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 failure to stop at signal of a peace officer, a category B felony, (count 1), and one count of interception, interruption or delay of message sent over a telephone line (count 2). Fifth Judicial District Court, Nye County; John P. Davis, Judge. The district court sentenced appellant Mark Steven Scott to serve a 12 to 36 month prison term for count 1 and a concurrent one year jail term for count 2. The district court suspended the sentences and placed Scott on probation for a period of one year on the condition that Scott serve the first 364 days of probation incarcerated in the county detention facility, after which time he would be discharged from probation. Scott was given 196 days of credit for time served.

Scott's sole contention on appeal is that insufficient evidence was adduced at trial to support his convictions. 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 conflicting 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.

First, Scott claims that he was improperly convicted of the category B felony of failure to stop at signal of a peace officer because the State failed to prove beyond a reasonable doubt that during his high speed flight from police he drove in a manner that was likely to endanger other persons or property. Here, the jury heard Scott and two police officers who pursued him during the long car chase testify to the following: the officers, driving in marked squad cars, signaled Scott to stop with flashing lights and sirens; Scott acknowledged the officers' signals by initially slowing his vehicle and beginning to pull off the highway; Scott then accelerated and drove away, reaching speeds of 90 miles per hour with the officers in close pursuit for several miles; Scott then turned off the highway and proceeded over unpaved roads and then open country for several more miles, reaching speeds of 70 miles per hour with the officers still in pursuit; other motorists present on the highway pulled over to get out of the way of Scott's speeding vehicle; unfenced livestock were present on or near the unpaved roads and open country through which the chase proceeded; and there was poor visibility due to the gathering dusk, then full darkness, and the thick blowing dust raised when the chase proceeded off-road. We conclude that a rational juror could find Scott guilty, beyond a reasonable doubt, of the category B felony of failure to stop at signal of a peace officer. See NRS 484.348(3)(b).

Second, Scott claims that the State failed to prove, beyond a reasonable doubt, that he caused the interruption of the 9-1-1 emergency call because the particular telephone was known to malfunction and drop calls. Here, Scott testified that he snatched the phone from the caller's ear and threw it to the floor, where it shattered. The caller testified that she dialed 9-1-1 before Scott snatched the phone away from her, and the police dispatcher testified that she logged an interrupted 9-1-1 call originating from that telephone. We conclude that a rational juror could find Scott guilty, beyond a reasonable doubt, of interception, interruption or delay of message sent over a telephone line. See NRS 707.900.

Having considered Scott's contention and concluded it is without merit, we

ORDER the judgment of conviction AFFIRMED.

_____, J.
Parraguirre

_____, J.
Douglas

_____, J.
Pickering

cc: Hon. John P. Davis, District Judge
Nye County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Nye County District Attorney/Pahrump
Nye County District Attorney/Tonopah
Nye County Clerk