

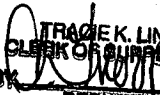
IN THE SUPREME COURT OF THE STATE OF NEVADA

DALE MATTHEW POSS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 51958

**FILED**

JAN 26 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 aiming a firearm at another human being. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. The district court sentenced appellant Dale Matthew Poss to a jail term of 9 months, suspended execution of the sentence, and placed him on probation for an indeterminate period not to exceed 36 months.

Poss contends that the evidence presented at trial was insufficient to support the jury's finding that he was guilty beyond a reasonable doubt. Specifically, Poss claims that the trial testimony of the victim and two eyewitnesses was contradictory and no more than "three people who could not agree on much at all." Poss concedes that he possessed a firearm, but argues that "[i]t may have been aimed at the ground, or the sky, or at [the victim], or at all three men, but may have been is not sufficient."

Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. In particular, two witnesses testified that they heard an argument between Poss and the victim, after which Poss left and soon returned carrying a firearm. According to the witnesses, Poss pointed the

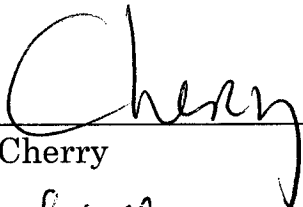
09-02096


firearm at the victim. The victim similarly testified that he had a heated exchange with Poss, after which Poss returned to his house only to reappear with a firearm, which he pointed at him. Detective Ron Chalmers of the Reno Police Department testified that he was called to the scene and eventually found "a long-barrelled shotgun" at Poss's residence.

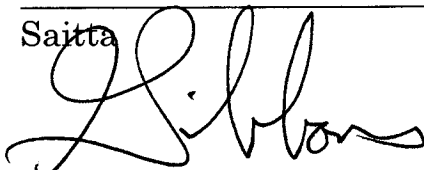
Based on all of the above, we conclude that the jury could reasonably infer from the evidence presented that Poss committed the crime beyond a reasonable doubt. See NRS 202.290(1). It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. See Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). Moreover, we note that circumstantial evidence alone may sustain a conviction. See Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003). Therefore, we conclude that the State presented sufficient evidence to support the jury's verdict.

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

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Connie J. Steinheimer, District Judge  
Washoe County Public Defender  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk