

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL CARL ALLEN, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52452

**FILED**

SEP 24 2009

TRACEY K. LINZMAN  
CLERK OF SUPREME COURT  
BY: *J. Murphy*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of escape—unauthorized absence from classification assignment. Eighth Judicial District Court, Clark County; Valerie Adair, Judge. The district court sentenced appellant Michael Carl Allen, Jr., to serve a prison term of 12 to 32 months.

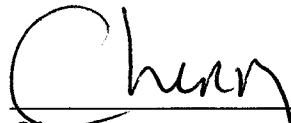
Allen contends there was insufficient evidence adduced at trial to prove him guilty beyond a reasonable doubt. Specifically, Allen argues that the witnesses who identified Allen were not credible and that the State failed to prove that a distinctive piece of clothing the witnesses identified belonged to him.


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 the “jury’s function . . . to assess the weight of the evidence and determine the credibility of witnesses” and this court will not disturb a verdict that is supported by substantial evidence. Id.


Allen, an inmate residing at the Casa Grande transitional housing facility, received authorization to travel to and from the Department of Motor Vehicles (DMV) on May 29, 2007. At trial, Casa Grande's correctional manager testified that Allen's authorization required Allen to return to Casa Grande immediately after completing his business at the DMV and prohibited him from deviating from his route or traveling to any other location. See NRS 212.095(1) ("Any unauthorized absence from the place of assignment by an offender . . . constitutes an escape from prison"). The correctional manager, and three additional witnesses, identified Allen as the person in a surveillance video filmed at the MGM Grand Hotel & Casino on May 29, 2007. The witnesses were able to identify Allen not only from the pair of distinctive torn jeans that belonged to Allen, but by positive facial identification as well. Both the MGM surveillance video and the pair of distinctive jeans were admitted at trial. We conclude that the evidence presented at trial was sufficient for a rational juror to determine that Allen was present at the MGM and absent from his classification assignment without authorization.

Having considered Allen's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

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

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

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

cc: Hon. Valerie Adair, District Judge  
Marchese Law Office  
Attorney General Catherine Cortez Masto/Las Vegas  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk