

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLENN DARNELL DEAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52769

**FILED**

**OCT 21 2009**

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 conspiracy to commit kidnapping, first-degree kidnapping with the use of a deadly weapon, and robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Glenn Darnell Dean to prison terms of 28 to 72 months for conspiracy; 60 months to life for kidnapping, plus a term of 60 to 240 months for the deadly weapon enhancement; and 60 to 180 months for robbery, plus an equal and consecutive term for the deadly weapon enhancement.

On appeal, Dean contends that there was insufficient evidence to support the jury's verdict of kidnapping because the State did not present sufficient evidence that he committed kidnapping with the intent (1) to kill or substantially injure the victim or (2) to rob the victim.

Our standard of review in determining the sufficiency of the evidence is "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." Rose v. State, 123 Nev. 194, 202, 163 P.3d 408, 414 (2007) (quoting Origel-

Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998)), cert. denied, \_\_\_ U.S. \_\_\_, 129 S. Ct. 95 (2008).

Respecting first-degree kidnapping, that offense is defined in part as willfully seizing a person “for the purpose of committing sexual assault, extortion or robbery . . . or for the purpose of killing the person or inflicting substantial bodily harm.” NRS 200.310(1). Considering the elements of kidnapping and the evidence adduced at trial, we conclude that Dean’s arguments lack merit and the kidnapping conviction is sufficiently supported by the evidence.

Intent to kill or substantially injure

Dean contends that there was insufficient evidence presented to support the jury’s verdict for kidnapping because the State failed to prove that he had the intent to kill or substantially injure the victim. Specifically, the victim testified that Dean stated that he was going to “murk” the victim and “leave him to stink at Lake Mead.” The victim believed this to mean that Dean was going to hurt or kill him. Dean contends that the victim’s “subjective interpretation of” the remark is “meaningless,” and, to meet its burden of proof, the State should have introduced other witnesses who could testify as to the meaning of Dean’s statement.

We conclude that Dean’s argument lacks merit. Not only could the jury reasonably infer Dean’s comments to “murk” the victim and “leave him to stink at Lake Mead” reflected an intent to kill or substantially harm the victim, other evidence supported the State’s theory in this regard. In particular, Dean forced the victim to remove his clothing and Dean took the victim’s possessions and clothing, showed him a weapon, and forced him into a vehicle. While Dean was on his cell phone,

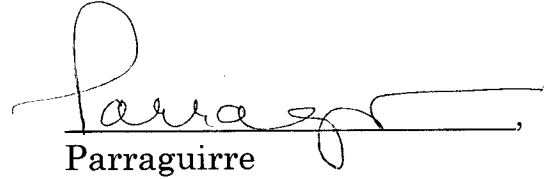
the victim, fearing that another person would enter the vehicle and prevent any escape, jumped from the moving vehicle and ran to safety, scraping his hands and knees in the process. A witness testified that the victim called her and asked for a ride. When the witness went to pick him up, he hid in the backseat of the car, was distressed, and stated, "I almost died." She noted that the victim's hands and knees were bleeding. We conclude that Dean's comments to the victim during the event coupled with other evidence presented sufficiently supports Dean's kidnapping conviction on the theory that Dean intended to kill or cause the victim substantial bodily harm.

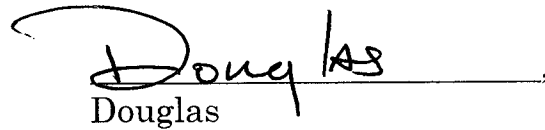
Intent to rob

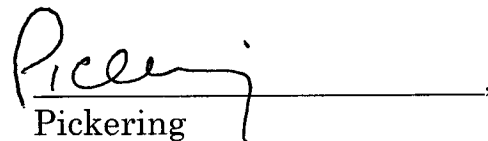
Dean contends that there was insufficient evidence presented to support the jury's verdict for kidnapping because the robbery was completed before the victim was seized. However, even accepting Dean's argument, the State sought a kidnapping conviction on two theories—that Dean committed the offense either with the intent to kill or cause substantial bodily harm or to rob the victim. And the jury was properly instructed on these theories. As we concluded above, sufficient evidence supports the kidnapping conviction on the former theory. Because the evidence supported a theory of kidnapping upon which the jury was properly instructed, the issue of factual sufficiency respecting the alternative theory is of no consequence. See generally Phillips v. State, 121 Nev. 591, 597, 119 P.3d 711, 716 (2005) (if all theories of criminal liability alleged are legally sufficient, a general verdict may be upheld even if sufficient evidence supports only one theory), receded from on other grounds by Cortinas v. State, 124 Nev. \_\_\_, \_\_\_ n.52, 195 P.3d 315, 324 n.52 (2008).

Having considered Dean's contentions and determined that they are without merit, we

ORDER the judgment of conviction AFFIRMED.<sup>1</sup>

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Eighth Judicial District Court Dept. 7, 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

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<sup>1</sup>On June 4, 2009, this court received proper person documents from Dean. However, we have not granted him leave to proceed in proper person. See NRAP 46. Accordingly, we decline to consider Dean's proper person documents and direct the clerk of this court to return to Dean, unfiled, the proper person documents received in this court on June 4, 2009.