

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOE BETH CASSELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53287

**FILED**

**AUG 25 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 each of burglary and attempted robbery. Eighth Judicial District Court, Clark County; David B. Barker, Judge. The district court sentenced appellant Joe Beth Cassell to two prison terms of 24 to 72 months, to be served concurrently.

Cassell's sole claim on appeal is that the evidence adduced at trial was insufficient to support her conviction for burglary. In particular, she challenges the sufficiency of the evidence supporting the intent element of the burglary charge. We conclude that this contention lacks merit.

In a criminal case, the standard of review 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." Mitchell v. State, 124 Nev. \_\_\_, \_\_\_, 192 P.3d 721, 727 (2008) (internal quotations and citations omitted). "This court will not disturb a jury verdict where there is substantial evidence to support it, and circumstantial evidence alone may support a conviction." Hernandez v. State, 118 Nev. 513, 531, 50 P.3d 1100, 1112 (2002).

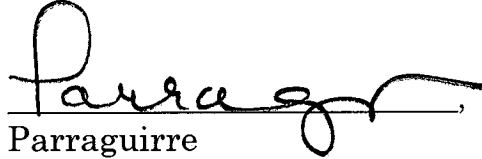
Furthermore, “[t]his court will not reweigh the evidence or evaluate the credibility of witnesses because that is the responsibility of the trier of fact.” Mitchell, 124 Nev. at \_\_\_, 192 P.3d at 727.

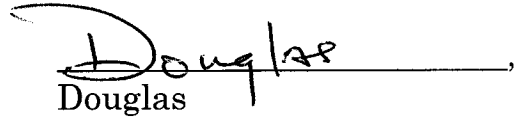
A person who enters any building with the intent to commit a felony therein is guilty of burglary. NRS 205.060(1). The gravamen of the intent element is the time at which the person possesses the requisite intent to commit larceny. State v. Adams, 94 Nev. 503, 505, 581 P.2d 868, 869 (1978). If the criminal intent is not formed until after entry, no burglary has been committed. Id. Intent need not be demonstrated by direct evidence, but “may be inferred from the conduct of the parties and the other facts and circumstances disclosed by the evidence.” Moore v. State, 122 Nev. 27, 36, 126 P.3d 508, 513 (2006) (quoting Larsen v. State, 86 Nev. 451, 453, 470 P.2d 417, 418 (1970)); see also NRS 193.200 (“Intention is manifested by the circumstances connected with the perpetration of the offense, and the sound mind and discretion of the person accused.”).

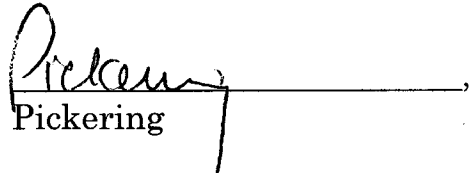
Here, the State produced evidence that a few weeks prior to the attempted robbery, Cassell told her friend that she (Cassell) ought to rob a bank. Two days before the attempted robbery, Cassell entered the bank, walked directly to the magazine rack, and looked at a magazine. A bank employee approached Cassell and asked if she needed any assistance. Cassell said “no,” then immediately left the bank. Further, on the day of the robbery, Cassell stood in or near the merchant teller line with a bank deposit bag that did not contain any money. Instead, it contained a note, written in black permanent marker, informing the teller that this was a robbery, not to be a hero and not to give Cassell any “funny money.”

From this evidence, a reasonable jury could have concluded, beyond a reasonable doubt, that Cassell possessed the intent to commit a felony when she entered the bank. Accordingly, we conclude that Cassell's contention is without merit and we

ORDER the judgment of conviction AFFIRMED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Hon. David B. Barker, 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