

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN JAMES MORALES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54216

FILED

JUL 15 2010

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 two counts of burglary with the use of a deadly weapon, two counts of robbery with the use of a deadly weapon, two counts of second-degree kidnapping with the use of a deadly weapon, false imprisonment with the use of a deadly weapon, first-degree kidnapping with the use of a deadly weapon, and stop required on signal of police officer. Eighth Judicial District Court, Clark County; David Wall, Judge. Appellant Steven James Morales raises two issues.

First, Morales claims that the State presented insufficient evidence to support the jury's verdict convicting him of one of the counts of robbery with the use of a deadly weapon. After robbing a drug store and fleeing from police, Morales entered a residence and held a family at gunpoint, repeatedly threatening to kill them. After a few hours, Morales became agitated and stated that he needed a way out. The adult male victim, Edward Ducsak, offered him one of Ducsak's vehicles and himself as a hostage if Morales would leave the others unharmed. Morales

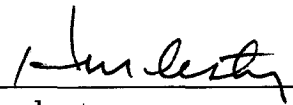
accepted and kept his gun pointed at Ducsak while the latter found a set of truck keys and handed them to Morales. They exited the house, but when Morales spotted police officers down the road, he went back inside and did not take the vehicle.

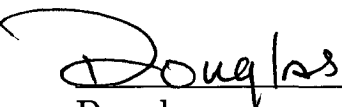
Morales was charged with robbing Ducsak of “keys and/or a vehicle.” He contends that because Ducsak offered him the keys, there was no taking of property and thus no robbery. We disagree and conclude that a rational juror could have reasonably found the essential elements of this crime beyond a reasonable doubt. See Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998); Jackson v. Virginia, 443 U.S. 307, 319 (1979); NRS 200.380. Though Ducsak offered the truck to Morales, that offer resulted from the terror Morales visited upon him and his family and the jury could therefore reasonably find that a taking was accomplished without Ducsak’s consent. See Flynn v. State, 93 Nev. 247, 249, 562 P.2d 1135, 1136 (1977); Hayden v. State, 91 Nev. 474, 476, 538 P.2d 583, 584 (1975).


Second, Morales claims his sentence is grossly disproportionate to the crimes he committed and therefore constitutes cruel and unusual punishment. Morales held four people at gunpoint while stealing drugs from a Walgreens, then committed the above-described home invasion. The sentence imposed is not disproportionate to the crimes, and Morales therefore fails to establish that the district court abused its discretion. See Etcheverry v. State, 107 Nev. 782, 786, 821 P.2d 350, 352 (1991).

Having considered Morales's claims and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. David Wall, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk