

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT ADAM MCGUFFEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54648

FILED

JUN 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Ingram
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of two counts of intimidating a witness to influence testimony.¹ Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

Appellant Robert Adam McGuffey contends that there was insufficient evidence to support his convictions because the State failed to prove that his statements and threats were made with the specific intent to influence testimony; cause or induce false testimony; withhold true testimony; or cause or induce a witness to withhold a record, document, or other object from a proceeding. We review the evidence in the light most favorable to the prosecution and determine whether any rational juror

¹We note that the judgment of conviction contains a clerical error; it incorrectly states that the conviction is pursuant to a guilty plea. Following this court's issuance of its remittitur, the district court shall enter a corrected judgment of conviction. See NRS 176.565 (providing that clerical errors in judgments may be corrected at any time); Buffington v. State, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994) (explaining that the district court does not regain jurisdiction following an appeal until the supreme court issues its remittitur).

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).

The jury heard testimony that Trooper Kaplan stopped McGuffey for speeding, became suspicious that he was driving while impaired, and administered several field sobriety tests. McGuffey asked the trooper to let him go. After he was placed under arrest, his demeanor changed and he told the trooper that, "he'll either give a breath test or he'll wrestle [the trooper];" "he's a brawler and he'll wait till . . . the last minute to do something;" and he has "been hit with a stun gun." McGuffey also told the trooper that (1) he works at Jones West Ford, and he will do a credit check and find out where the trooper lives, where the trooper and his family go to shop, and where they frequent; (2) "Nevada Highway Patrol [vehicles] are serviced at Jones West Ford and that he would take care of [the] cars really good for [the troopers], the brakes, seat belt, air bags, things like that;" (3) he is proficient with firearms, shoots frequently at the Sage Hill Gun Club, and would be at the doorstep of the trooper's house; and (4) he was connected with Nevada's "good-old-boy" system, he will be bailed out within a half an hour of his arrest, whatever he is charged with will not stick, and "there's someone always on the jury who will sympathize with [him]." The jury also heard testimony that Trooper Neuenschwander administered the evidentiary breath test on McGuffey at the county jail. McGuffey stared at Trooper Neuenschwander's name tag and said, "That's an interesting name, can't be too many people in this town with that name." When Trooper Neuenschwander asked if he was making a threat, McGuffey responded, "I don't make threats, I make good promises." McGuffey informed Trooper Neuenschwander that he had a connection with Jones West Ford and the ability to run credit checks on anybody and stated that the troopers were lucky that he was not carrying his firearm. Finally, the trial transcript

indicates that many of the comments McGuffey made to Trooper Kaplan were recorded by the video system installed in the trooper's patrol car, and that the recording was played for the jury.

We conclude from this evidence that a rational juror could infer that McGuffey intimidated the witnesses with the intent to influence their testimony, induce false testimony, or cause the witnesses to withhold evidence. See NRS 199.240(2); Sharma v. State, 118 Nev. 648, 659, 56 P.3d 868, 874 (2002) ("intent can rarely be proven by direct evidence of a defendant's state of mind, but instead is inferred by the jury from the individualized, external circumstances of the crime, which are capable of proof at trial"); see also NRS 193.200. 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. Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

Having considered McGuffey's contention and concluded that he is not entitled to relief, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Brent T. Adams, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk