

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN D. PORTER A/K/A JUG CAPRI  
PORTER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54866

**FILED**

NOV 08 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
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DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of second-degree murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge. Appellant Justin Porter raises two issues.

First, Porter claims that insufficient evidence supports his conviction. The jury heard Porter's confession that he kicked in the door to the victim's apartment, shot the victim multiple times, and picked up the shell casings from his handgun before retreating. Various witnesses then testified that: (1) a shoe taken from Porter's apartment was a possible match to a shoeprint impression left on the victim's door; (2) the victim's apartment is near Porter's girlfriend's apartment; and (3) only one shell casing was found at the scene, even though the victim was shot seven times. From this evidence, we conclude that a rational juror could have reasonably found the essential elements of second-degree murder with the use of a deadly weapon 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 200.010; NRS 200.030; NRS 193.165.

Second, Porter claims that the district court committed reversible error when it found that he validly waived his rights under

Miranda v. Arizona, 384 U.S. 436 (1966), and denied his motion to suppress his confession. Specifically, Porter claims that his low intelligence made it impossible for him to understand the rights he was waiving and therefore that waiver was not voluntarily, knowingly, or intelligently made. An expert testified that seventeen-year-old Porter had low verbal and reading ability but also opined that Porter had displayed high operational intelligence in his significant prior criminal history. Further, detectives attempted to have Porter speak to his mother over the phone, advised him of his Miranda rights, and asked him to sign a "Rights of Person Arrested Card," which Porter did. The detectives testified that they did have to help Porter pronounce some of the words as he read from the card, but Porter later affirmed during the interview that he recalled signing the card, being advised of his rights by the detectives, and, when asked if he still understood his rights, stated, "kinda, yes." The totality of the circumstances reveals that Porter voluntarily, knowingly, and intelligently waived his Miranda rights, see Floyd v. State, 118 Nev. 156, 171-72, 42 P.3d 249, 259-60 (2002), abrogated on other grounds by Grey v. State, 124 Nev. 110, 178 P.3d 154 (2008), and the district court therefore did not err in admitting his confession.

Having considered Porter's arguments and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

cc: Hon. Elissa F. Cadish, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Clark County Public Defender  
Eighth District Court Clerk