

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEMIAN DOMINGUEZ A/K/A DAMIAN
VAZQUEZ DOMINGUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55061

FILED

DEC 10 2010

FRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit robbery, conspiracy to commit murder, conspiracy, robbery with the use of a deadly weapon, burglary, and first-degree murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Valorie Vega, Judge. Appellant Demain Dominguez raises two issues.

First, Dominguez argues that his murder conviction must be reversed because the victim died of intervening medical error, not of the stab wounds that placed him in the hospital. We reject this contention. The victim reported in his 9-1-1 call that he had been attacked by a group of individuals who were waiting for him inside when he returned home. Dominguez admitted to being part of that group, though he asserted that he was there to talk to the victim and protect him from the other three attackers who stabbed him, one of whom was Dominguez's brother. The victim died after exploratory surgery. A medical examiner testified that the victim's cause and manner of death were homicide due to multiple stab

wounds. We conclude that because these injuries were a “substantial factor” in the victim’s death, Dominguez cannot escape liability for murder. Lay v. State, 110 Nev. 1189, 1192-93, 886 P.2d 448, 450 (1994).

Second, Dominguez claims that there is insufficient evidence to support his convictions for robbery with the use a deadly weapon and conspiracy to commit robbery. The jury heard evidence that Dominguez conspired with the victim’s girlfriend, Liliani Tomines, to murder the victim, including: (1) their initial denials that they knew each other; (2) their subsequent confrontation with 112 phone calls made between them in a period of a few weeks, including on the night of the murder; (3) evidence that Tomines let the group that attacked the victim into the house for the purpose of lying in wait for the victim; (4) Dominguez’s admission of involvement; and (5) the victim’s exclamation that the group that attacked him had stolen his wallet. A rational juror, looking at Tomines’ and Dominguez’s coordinated conduct, could have inferred the existence of an agreement to rob the victim as part of the plan to murder him and could have therefore found beyond a reasonable doubt that Dominguez conspired to commit, and did in fact commit, robbery with the use of a deadly weapon. 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(1); NRS 193.165; NRS 199.480. Further, we reject Dominguez’s assertion that because his brother, a co-conspirator tried separately, was acquitted of robbery and conspiracy to commit robbery, Dominguez’s convictions must be reversed as well. See Hilt v. State, 91 Nev. 654, 662, 541 P.2d 645, 650 (1975).

Having considered Dominguez's contentions 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. Valorie Vega, District Judge
Attorney General/Carson City
Clark County District Attorney
Thomas A. Ericsson, Chtd.
Eighth District Court Clerk