IN THE SUPREME COURT OF THE STATE OF NEVADA

RAYMOND L. MCDONALD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55102

FILED

APR 0 6 2011

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 conspiracy to commit robbery, burglary while in possession of a deadly weapon, and three counts of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Appellant Raymond L. McDonald claims that insufficient evidence supports his convictions because the witnesses were not credible. This claim lacks merit because the evidence, when viewed in the light most favorable to the State, is sufficient to establish McDonald's guilt beyond a reasonable doubt as determined by a rational trier of fact. See Jackson v. Virginia, 443 U.S. 307, 319 (1979); McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).
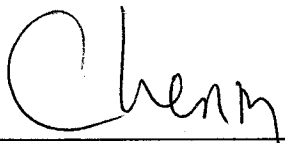
The victims testified that McDonald and another man entered the apartment, locked the door behind them, pulled out guns, directed the victims to get on the ground, took jewelry from two of the victims, took a bag from the third victim, and took additional items from the apartment. This evidence was sufficient for a rational juror to infer that McDonald entered the apartment with the intent to commit a felony, see NRS
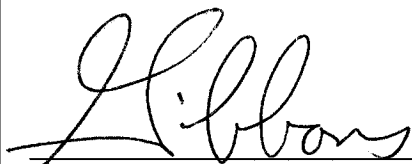
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205.060(1), committed a robbery against each of the victims by unlawfully taking personal property from the victims, or in their presence, by means of force, violence, or fear of injury while using a deadly weapon, see NRS 200.380(1); NRS 193.165(1), and conspired to commit the robberies, NRS 199.480(1). It was for the jury to assess the witnesses' credibility and determine the weight to give their testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. McNair, 108 Nev. at 56, 825 P.2d at 573; Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

McDonald also claims that the district court erred by admitting evidence that one of McDonald's relatives attempted to bribe one of the witnesses not to testify. "We review a district court's decision to admit or exclude evidence for an abuse of discretion." Mclellan v. State, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). Because McDonald objected to the admission of the evidence, we review for harmless error. See NRS 178.598; Mclellan, 124 Nev. at 269-70, 182 P.3d at 111. We conclude that the district court abused its discretion by admitting the evidence because it was not relevant. See NRS 48.015 (defining relevant evidence); cf. Lay v. State, 110 Nev. 1189, 1193-94, 886 P.2d 448, 450 (1994) (prosecutor's references to witness intimidation were not relevant to any issue in the case). As the State noted in its closing argument, the witness did not and could not have known that McDonald solicited his mother and grandmother to dissuade the witnesses not to testify and McDonald was not charged with this crime in the instant matter. We further conclude that, because substantial evidence supports the convictions and because the jury was informed through other properly admitted evidence that McDonald asked his relatives to dissuade the witnesses from testifying,

the error did not substantially affect the jury's verdict and therefore was harmless. <u>Cf.</u> <u>Lay</u>, 110 Nev. at 1193-94, 886 P.2d at 450-51 (a prosecutor commits reversible misconduct by referencing or implying witness intimidation by a defendant "unless the prosecutor also produces substantial credible evidence that the defendant was the source of the intimidation").

Having concluded that McDonald is not entitled to relief, we ORDER the judgment of conviction AFFIRMED.

_____, J.
Cherry

_____, J.
Gibbons

_____, J.
Pickering

cc: Hon. Douglas W. Herndon, District Judge
Cristalli & Saggese, Ltd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk