

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD MULOCK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56276

FILED

FEB 09 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

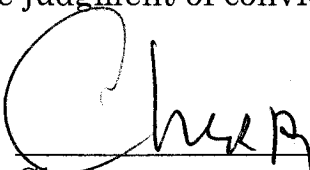
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of assault with a deadly weapon. Seventh Judicial District Court, Lincoln County; Steve L. Dobrescu, Judge.


First, appellant Donald Mulock contends that insufficient evidence was adduced to support the jury's verdict. We disagree because the evidence, when viewed in the light most favorable to the State, is sufficient to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. See Jackson v. Virginia, 443 U.S. 307, 319 (1979); Mitchell v. State, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). Here, trial testimony indicated that Mulock struck the victim in the chest and face and threatened her with a knife. The victim testified that she was scared at the time of the incident. It is for the jury to determine the weight and credibility to give conflicting testimony, and a jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. See NRS 200.471(1)(a)(2); NRS 193.165(6); McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992); Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); see, e.g., Funderburk v. State, 125 Nev. ___, ___, 212 P.3d 337, 338 (2009) ("the Legislature intended the definition of 'deadly weapon' to be broad for purposes of determining whether a defendant committed burglary while in possession of a deadly weapon").

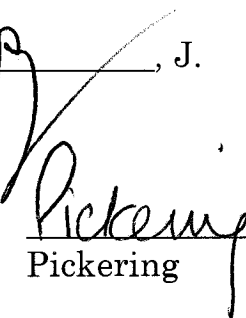
Second, Mulock contends that the district court erred by providing an overbroad and inappropriate instruction defining “deadly weapon.” “The district court has broad discretion to settle jury instructions, and this court reviews the district court’s decision for an abuse of that discretion or judicial error.” Crawford v. State, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005). Whether an instruction was an accurate statement of the law is reviewed de novo. See Funderburk, 125 Nev. at ___, 212 P.3d at 339. Here, the jury instruction was proper considering the facts of the case and a correct statement of the law. See NRS 193.165(6); see also Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221 (1979) (for purposes of NRS 193.165, a defendant need only produce a fear of harm or force). Therefore, we conclude that the district court did not abuse its discretion or commit judicial error.

Third, Mulock contends that trial counsel was ineffective for failing to object to alleged prosecutorial misconduct during voir dire. Generally, claims of ineffective assistance of counsel will not be considered on direct appeal. See Johnson v. State, 117 Nev. 153, 160-61, 17 P.3d 1008, 1013 (2001). Mulock has failed to provide us with any reason to depart from this policy in his case. See id.; see also Archanian v. State, 122 Nev. 1019, 1036, 145 P.3d 1008, 1020-21 (2006). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Steve L. Dobrescu, District Judge
State Public Defender/Carson City
State Public Defender/Ely
Attorney General/Carson City
Lincoln County District Attorney
Lincoln County Clerk