

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE LUIS COVARRUBIAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56363

FILED

JUN 08 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingersoll*
DEPUTY CLERK

ORDER OF AFFIRMANCE

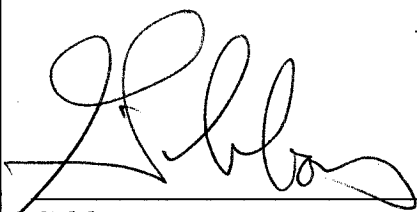
This is an appeal from a judgment of conviction, pursuant to a jury trial, of battery by a prisoner. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

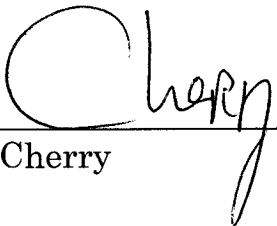
Appellant Jose Covarrubias contends that the State failed to meet its burden of proving that he did not batter the victim in self-defense. We disagree. Three correctional officers testified that Covarrubias and his four codefendants started a fight with the victim and that the victim did nothing to instigate it. These witnesses also described that the five assailants were wearing prohibited footwear on the morning of the fight and explained that this indicated that they had planned the attack. Additionally, one officer testified that it was Covarrubias who picked up a chair and struck the victim on the head. Though one of Covarrubias' codefendants testified to facts that could support a self-defense claim, it is for the jury to determine the weight and credibility to give conflicting testimony. See Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981). Therefore, "viewing the evidence in the light most favorable to the prosecution," we conclude that a "rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." McNair

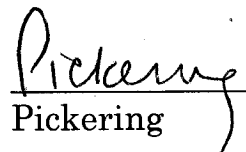
v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

Having considered Covarrubias' claim and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

 _____, J.
Gibbons

 _____, J.
Cherry

 _____, J.
Pickering

cc: Hon. James M. Bixler, District Judge
Sanft Law, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk