

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTIAN ANDERSON WEBB,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56583

**FILED**

**MAY 10 2011**

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit robbery, robbery with the use of a deadly weapon, and grand larceny. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Appellant Christian Anderson Webb contends that insufficient evidence was adduced to support the jury's verdict. Webb claims that the evidence only established that he might have been present at the crime scene but not that he participated. 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).

Julio Montes testified at trial that he pleaded guilty to conspiring with Webb to rob the victim. Montes, however, also repudiated his prior statements implicating Webb in the crime and claimed that he did not know the black male he was with when the two of them robbed the victim or the individual standing trial. Montes stated that the black male threatened the victim with a knife and later sold the speakers taken from the victim's vehicle. Detective Edwing Melgarejo testified that during an


interview with Montes, he showed him a photograph of Webb and Montes admitted to committing the crime with him. Webb also informed Detective Melgarejo during his interview that he was present with Montes during the robbery and acknowledged running from the officers during a chase later that night. Although the victim never identified Webb as one of the perpetrators, he did testify that a black male threatened him with a knife and forced him to lay face down on the ground while the black male and Montes drove away in his vehicle. Webb's fingerprints were discovered on the victim's car.

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 193.165(1); NRS 199.480(1); NRS 200.380(1); NRS 205.220(1)(a); 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). Additionally, circumstantial evidence alone may sustain a conviction. See Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003); Baker v. Sheriff, 93 Nev. 11, 13, 558 P.2d 629, 629 (1977) (“[A]lthough mere presence cannot support an inference that one is a party to an offense, presence together with other circumstances may do so.”).

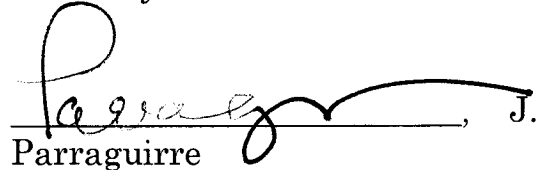
Finally, the State correctly points out that, at the sentencing hearing, the district court adjudicated Webb as a habitual criminal and imposed a prison term of 10 years to life for count II (robbery with the use of a deadly weapon). The judgment of conviction, however, states that the district court imposed consecutive prison terms of 96-240 months and 12-48 months for count II. As a result, the State now asks this court to remand the matter to the district court “with instructions to correct the

clerical error.” We decline to do so. The district court’s oral pronouncement of a sentence remains subject to modification by the imposing judge until such time as a judgment is signed and entered by the clerk. See Bradley v. State, 109 Nev. 1090, 1094-95, 864 P.2d 1272, 1274-75 (1993) (holding that district court could modify the original sentence, which had been orally pronounced without reference to consecutive or concurrent terms, to impose consecutive terms); see also Tener v. Babcock, 97 Nev. 369, 632 P.2d 1140 (1981) (a judge retains authority to reconsider a decision until such time as a written judgment is entered). Therefore, because the written judgment is controlling and not the oral pronouncement, see Bradley, 109 Nev. at 1094, 864 P.2d at 1275, we conclude that the State must raise this issue in the district court in the first instance. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Valerie Adair, District Judge  
Oronoz Law Offices  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk