

IN THE SUPREME COURT OF THE STATE OF NEVADA

PRENTICE L. WALKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56790

FILED

MAY 10 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 aiding and abetting theft—obtaining money in excess of \$2,500 by material misrepresentation. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

First, appellant Prentice Lamar Walker 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).

Trial testimony indicated that a fraudulent claim in Walker's name was submitted to the Nevada Victims of Crime Program and, as a result, checks totaling \$9,820 were issued in his name. One of Walker's codefendants was his wife, a claims compensation officer with the VOC program, and she was convicted of four counts of theft. Barbara Boos, Director of Operations for Cost Containment Strategies, Inc., testified that a valid claim and file pertaining to another individual's case "was changed to the name of Lamar Walker" and contained several documents with a

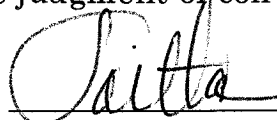
signature in the name of "Lamar Walker." The file created in Walker's name listed an invalid home address and did not include a police report, disability information, or verified medical documentation and, therefore, he was not eligible for benefits. Boos also testified that based on what was in the file, discretionary relocation expenses should not have been approved for payment.

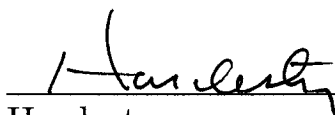
Sanford Manchester, an investigator with Bank of America, testified that in order to cash a check at his bank, a fingerprint imprint in ink of the individual signing the check was required on the check itself. Two forms of identification, including a photograph, were also required from the individual presenting the check for cashing. David Johnson, a forensic scientist with LVMPD, testified as an expert in fingerprint analysis that the ink fingerprint on check no. 34750, issued by Cost Containment Strategies, Inc., and made out to Walker in the amount of \$3,600, belonged to Walker. The name "Prentice L. Walker" was signed on the back of check no. 34750.

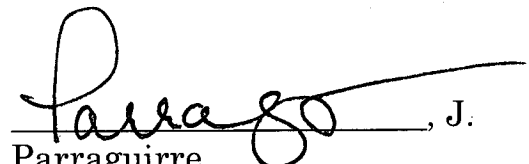
It is for the jury to determine the weight and credibility to give conflicting testimony, and a jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. See NRS 205.0832(1)(c); McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992); Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); see also NRS 195.020; Bolden v. State, 121 Nev. 908, 914, 124 P.3d 191, 195 (2005), overruled on other grounds by Cortinas v. State, 124 Nev. 1013, 195 P.3d 315 (2008). Additionally, circumstantial evidence alone may sustain a conviction. See Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003).

Second, Walker contends that the district court erred by (1) failing to rule on his motion to dismiss or, alternatively, for a mistrial based on an alleged Brady violation, and (2) fashioning an inappropriate remedy based on the allegation. See Brady v. Maryland, 373 U.S. 83, 87 (1963) (announcing a trial right to discovery of exculpatory information). We disagree. Walker orally made his motion after it was alleged that the State failed to provide defense counsel with a statement made by one of the witnesses who had already testified. The State disputed the claim and noted that the witness' statement was provided to prior counsel. At the State's suggestion, the district court offered to strike the witness' entire testimony and instruct the jury to disregard it. When asked by the district court if that remedied the situation, defense counsel eventually replied, "I think that would be a proper remedy in this case." Additionally, Walker withdrew his motion "given the Court's ruling regarding striking the entire testimony" of the witness. When a defendant participates in the alleged error, he is "estopped from raising this claim on appeal because he invited the error." Rhyne v. State, 118 Nev. 1, 9, 38 P.3d 163, 168 (2002); Jones v. State, 95 Nev. 613, 618, 600 P.2d 247, 250 (1979). Therefore, because Walker consented below to the district court's remedy for the alleged Brady violation and withdrew his motion, we conclude that he is estopped from raising the issue now. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


Saitta _____, J.


Hardesty _____, J.


Parraguirre _____, J.

cc: Hon. Michael Villani, District Judge
Benjamin C. Durham
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk