

IN THE SUPREME COURT OF THE STATE OF NEVADA

KYLE JESSE RODNEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56991

**FILED**

**OCT 05 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 burglary while in possession of a deadly weapon, conspiracy to commit robbery, robbery with the use of a deadly weapon, conspiracy to commit murder, attempted murder with the use of a deadly weapon, and battery with the use of a deadly weapon resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Appellant Kyle Jesse Rodney contends that insufficient evidence was adduced to support the jury's verdict on the counts of conspiracy to commit murder and attempted murder with the use of a deadly weapon. We disagree and conclude that 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 Rodney and his accomplice, Craig Downing, traveled together to the victim's house where they proceeded to severely beat and rob him, leaving him unconscious. Rodney met the victim earlier that evening at a casino where the victim won

approximately \$10,000. The victim testified that he was not sure who used which weapon, but they both beat him—one with a small bat and the other with an unknown hard object. At one point during the beating, the victim heard one of the two men say to him, “something like, ‘You’re dead now. You’re dead now. We’re killing you. You’re dead now.’” And at that moment, the victim saw “a big heavy knife” thrust towards his face, cracking his orbital bone and slicing through to his skull. As the victim attempted to crawl away, he was hit repeatedly in the back of his head and then his face with the bat before he lost consciousness and stopped moving. Downing’s girlfriend witnessed the attack and testified that it appeared that Rodney and Downing were working together. Rodney and Downing fled from the scene together after stealing the victim’s cell phone, wallet, and car keys. Numerous photographs detailing the victim’s injuries were admitted and shown to the jury.

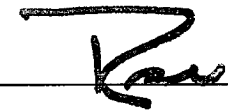
It is for the jury to determine the weight and credibility to give conflicting testimony, and a jury’s verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. See NRS 193.165; NRS 193.330(1); NRS 199.480(1); NRS 200.010; NRS 200.030; McNair v. State, 108 Nev. 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); Grant v. State, 117 Nev. 427, 435, 24 P.3d 761, 766 (2001) (“Intent need not be proven by direct evidence but can be inferred from conduct and circumstantial evidence.”).


Rodney also contends that cumulative error warrants a new trial. Because Rodney failed to demonstrate any error, we conclude that

his contention lacks merit. See Pascua v. State, 122 Nev. 1001, 1008 n.16, 145 P.3d 1031, 1035 n.16 (2006). Accordingly, we

ORDER the judgment of conviction AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, Sr.J.  
Rose

  
\_\_\_\_\_, Sr.J.  
Shearing

cc: Hon. Douglas W. Herndon, District Judge  
Sterling Law, LLC  
Robert E. Glennen, III  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>The Honorables Robert Rose and Miriam Shearing, Senior Justices, participated in the decision of this matter under general orders of assignment.