IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN PHILLIP MOSZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57604

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of possession of a short-barreled shotgun and possession of a firearm by an ex-felon. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

First, appellant John P. Mosz contends that insufficient evidence was presented at trial to support his conviction for possession of a short-barreled shotgun because the State failed to show that he had possession of the shotgun and knowledge of its existence.[1] We disagree.

Mosz was observed throwing a camouflage duffel bag outside of a motel room which he occupied with his girlfriend. When a security

[1]To the extent that Mosz argues that NRS 202.275(3) provides additional elements that the State must prove beyond a reasonable doubt, we decline to consider this claim because he offers no cogent argument or relevant authority. Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").

guard approached Mosz, he jumped in his car, brandished a handgun, and sped off leaving the bag behind. Officers later discovered that the bag contained shotgun shells and a shotgun with a 13-inch barrel. Corresponding shotgun shells were discovered inside the motel room in plain view. A subsequent DNA analysis on the shotgun excluded Mosz's girlfriend from having handled the weapon.

It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981). We conclude that a rational trier of fact, viewing this evidence in the light most favorable to the prosecution, could infer that Mosz knowingly possessed the shotgun that was found in the duffel bag. See McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992); see also State v. Rhodig, 101 Nev. 608, 611, 707 P.2d 549, 551 (1985) ("State of mind need not be proved by positive or direct evidence."); Deveroux v. State, 96 Nev. 388, 391, 610 P.2d 722, 724 (1980) ("[C]ircumstantial evidence alone may sustain a conviction."). Accordingly, Mosz's claim lacks merit.

Second, Mosz contends that the State committed prosecutorial misconduct during closing arguments when it showed the jury a photo from an unrelated case depicting two masked men brandishing handguns and pointing them at patrons inside a bank or office building. While we agree that the State's conduct was improper, we conclude that it was harmless error. See Valdez v. State, 124 Nev. 1172, 1188-89, 196 P.3d 465, 476 (2008) (explaining that "this court will not reverse a conviction based on prosecutorial misconduct if it was harmless error"). The PowerPoint slide depicting the robbery was immediately taken down and

the jury was admonished by the district court to disregard the photograph because it had nothing to do with the case. See id. at 1192, 196 P.3d at 478 (finding no prejudice where district court sustained objection and instructed jury to disregard improper comment). Our conclusion that the State's error did not substantially affect the jury's verdict is further supported by the fact that the jury acquitted Mosz of assaulting the security guard with a handgun. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. Kenneth C. Cory, District Judge
Justice Law Center
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk