

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE SOLANO PEREZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57683

FILED

NOV 18 2011

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of burglary and possession of a credit card or debit card without the cardholder's consent. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant George Solano Perez contends that his burglary conviction was not supported by sufficient evidence because the State failed to prove that he entered the store with the intent to commit larceny. We review the evidence in the light most favorable to the prosecution and determine whether any rational juror 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).

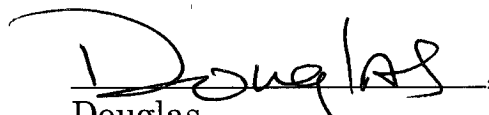
The jury heard testimony that the restrooms in McCarran International Airport are clearly marked and none of the stores in the airport have restrooms. The airport branch of Marshall Russo has a big window, two entrances, and a circular cash registrar area that provides the store employees with a clear view of the entire store. The store has a small storage room with an unmarked door where the store clerks keep

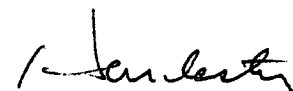
their purses while they are working. The jury was shown photographs of the inside of the store and storage room. The store employees are trained to greet customers within ten seconds of their arrival and to watch suspicious customers. Perez entered the store undetected, went into the storage room, and closed the storage room door behind him. Three employees were on duty and very few customers had entered the store. The employees were unaware of Perez's presence until he exited the storage room. Perez asked where the restroom was and was told that it was outside of the store. Perez walked towards the restroom, but then changed directions, exited the airport, and waited at a bus stop. The employees discovered that money and a credit card had been taken from their purses in the storage room. The jury was instructed that in order to convict Perez of burglary it must find beyond a reasonable doubt that Perez formed the intent to commit larceny before entering the store.

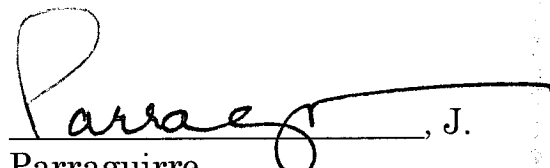
We conclude that a rational juror could infer from the evidence presented that Perez did not enter the store looking for a restroom but instead watched the store, found a way to enter undetected, and entered with the intent to commit larceny. See NRS 193.200; NRS 205.060(1); Sharma v. State, 118 Nev. 648, 659, 56 P.3d 868, 874 (2002) (observing that "intent can rarely be proven by direct evidence of a defendant's state of mind, but instead is inferred by the jury from the individualized, external circumstances of the crime, which are capable of proof at trial"); Fritz v. State, 86 Nev. 655, 657, 474 P.2d 377, 378 (1970) (jury may reject a defendant's explanation of why he is inside a building and "conclude that his entry into the establishment was with the intent to commit a felony"). The jury's verdict will not be disturbed where, as here, it is supported by

substantial evidence. See Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Michelle Leavitt, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk