

IN THE SUPREME COURT OF THE STATE OF NEVADA

RASHEEN DELONEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58399

FILED

JAN 12 2012

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Origel*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of possession of a controlled substance with intent to sell, possession of a short-barreled rifle, and possession of a firearm by an ex-felon. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant Rasheen Deloney argues that the evidence presented at trial does not support his convictions. We disagree.

In reviewing the sufficiency of the evidence, we must decide “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” Rose v. State, 123 Nev. 194, 202, 163 P.3d 408, 414 (2007) (quoting Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998)). Deloney points to three perceived insufficiencies on appeal. We will discuss each in turn.

First, Deloney argues that the evidence failed to establish that he resided at the apartment where the contraband was discovered. Police officers went to Deloney’s apartment because it had been reported that three men carrying firearms had entered the apartment. Deloney answered the door, told officers that it was his apartment, and allowed

them to search it. During the search, police officers found paperwork belonging to Deloney, his wallet, and backpack. Police found no one else there. In light of this evidence, the jury could reasonably infer that the apartment was Deloney's.

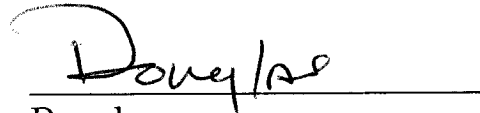
Second, Deloney challenges the sufficiency of the evidence supporting his intent to distribute an illegal substance. Here, the evidence shows that two large marijuana caches, ten small baggies filled with marijuana, several small empty baggies, a grinder with green plant residue, and two digital scales—commonly used in marijuana sales—were discovered when the officers searched Deloney's apartment. It is telling that no paraphernalia used to ingest the drug was discovered. A detective testified that, based on the quantity, it was not likely the marijuana was for personal use. Viewing this evidence in the light most favorable to the State, we conclude that a rational juror could find that Deloney intended to distribute an illegal substance.

Third, Deloney contends the evidence used to prove he possessed the firearm was also insufficient. While searching the apartment, officers found a modified rifle. The officers suspected, but did not have time to confirm, that the modifications had rendered the rifle illegal. NRS 202.275 (prohibiting firearms with an overall length of less than 26 inches). Because they were concerned with the more urgent task of finding the three armed men, the officers informed Deloney, a convicted felon, that he could not possess the weapon but left the rifle in the kitchen. When a detective returned to the apartment several days later to determine if the rifle was indeed illegal, he found the rifle in the closet of a different bedroom. We conclude that the State presented sufficient evidence to sustain Deloney's constructive possession of the firearm. See


Sheriff v. Shade, 109 Nev. 826, 830, 858 P.2d 840, 842 (1993) (finding possession where contraband was found in an exclusively accessible location subject to the accused's dominion and control).

Having considered Deloney's arguments and concluded they lack merit, we

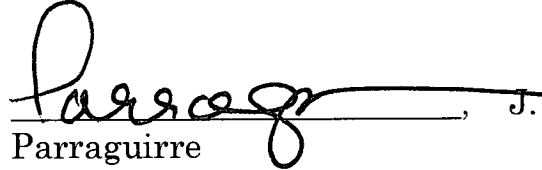
ORDER the judgment of conviction AFFIRMED.

 _____, J.

Douglas

 _____, J.

Gibbons

 _____, J.

Parraguirre

cc: Hon. Michelle Leavitt, District Judge
Sanft Law, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk