IN THE SUPREME COURT OF THE STATE OF NEVADA

JESUS GONZALEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58488

FILED

MAY 09 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of three counts of possession of stolen property and two counts of felon in possession of a firearm. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

First, appellant Jesus Gonzalez contends that insufficient evidence supports his convictions because the State failed to prove that the apartment was his or that he had exclusive control over the area where the stolen property and guns were found. 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 Mitchell v. State, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). The jury heard testimony that when the police searched the apartment they found a power bill and photo identification card in the north bedroom where the guns were found, a Money Tree receipt in the south bedroom, and a tax return document—all with Gonzalez's name and the apartment's address on them. The police also found Gonzalez inside the apartment. We conclude that a rational juror could reasonably infer from this testimony that Gonzalez resided in the apartment and possessed the stolen property and guns that were found therein. See NRS

202.360(1)(a); NRS 205.275(1). 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); see also Buchanan v. State, 119 Nev. 201, 217, 69 P.3d 694, 705 (2003) (circumstantial evidence alone may sustain a conviction).

Second, Gonzalez contends that the district court erred by denying his Batson challenges to the State's use of peremptory challenges to remove a Hispanic man and woman from the jury venire. See Batson v. Kentucky, 476 U.S. 79 (1986). "In reviewing a Batson challenge, the trial court's decision on the ultimate question of discriminatory intent represents a finding of fact of the sort accorded great deference on appeal." Diomampo v. State, 124 Nev. 414, 422-23, 185 P.3d 1031, 1036-37 (2008) (internal quotation marks omitted). The State explained that it challenged the man because of his youth and lack of life experiences and challenged the woman because she and her family had matters pending in the criminal justice system. Gonzalez did not dispute the State's explanations in the district court, see Hawkins v. State, 127 Nev. ___, ___, 256 P.3d 965, 967 (2011), and we conclude that he has not demonstrated that the district court erred by denying his Batson challenges, see Ford v. State, 122 Nev. 398, 403-05, 132 P.3d 574, 577-79 (2006) (describing the three-part analysis for evaluating Batson challenges and the factors to be considered when determining whether a prosecutor's reasons for a peremptory challenge are pretextual).

Third, Gonzalez contends that the district court abused its discretion by admitting evidence of an uncharged burglary and theft without conducting a hearing pursuant to Petrocelli v. State, 101 Nev. 46,

692 P.2d 503 (1985). Gonzalez did not object to this evidence and we conclude that he has not demonstrated plain error. See NRS 178.602; Mclellan v. State, 124 Nev. 263, 269, 182 P.3d 106, 110 (2008).

Having considered Gonzalez's contentions and concluded that he is not entitled to relief, we

ORDER the judgment of conviction AFFIRMED.

_______________, J.
Douglas

_______________, J.
Gibbons

_______________, J.
Parraguirre

cc: Hon. Douglas W. Herndon, District Judge
Phung H. Jefferson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk