

IN THE SUPREME COURT OF THE STATE OF NEVADA

NICHOLAS MCWEENEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58633

**FILED**

**MAR 07 2012**

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

ORDER OF AFFIRMANCE

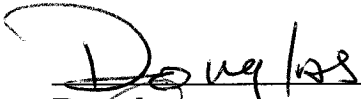
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiring to commit burglary, burglary, grand larceny, and possessing a credit or debit card without consent. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.


Appellant Nicholas McWeeney contends that insufficient evidence supports his burglary conviction because the State failed to prove that he “crossed the threshold” of the victim’s residence. We disagree. While no evidence directly places McWeeney in the home, ample circumstantial evidence supports the conviction. In particular, while under police surveillance, McWeeney was observed with two people driving around the victim’s neighborhood in a Buick. One of them dropped off McWeeney and another man near the victim’s home and the two men walked toward the back of the victim’s home. The police lost sight of them, but shortly thereafter the police observed the Buick return to the drop-off site and McWeeney and his cohort carry items to the Buick and depart the area. Suspecting that McWeeney had burglarized a home, the police investigated the area and discovered that the back door of the victim’s home showed signs of forced entry and the home had been ransacked. McWeeney was apprehended a short time later and a search of

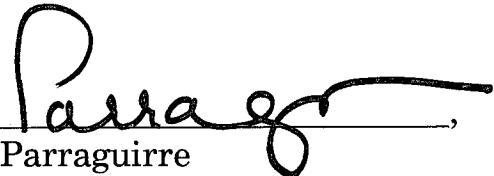
his car yielded two computers, a diamond necklace, a camera, and other property belonging to the victim. While McWeeney was being placed in a police car, one of the victim's credit cards fell out of McWeeney's pocket. We conclude that the State presented sufficient evidence—albeit circumstantial evidence—for a rational juror to find beyond a reasonable doubt that McWeeney burglarized the victim's home. NRS 205.060 (1); Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984) (stating standard of review for sufficiency of evidence); see Cunningham v. State, 113 Nev. 897, 909, 944 P.2d 261, 268 (1997) (holding that circumstantial evidence alone may sustain a conviction).

Accordingly, 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