

IN THE SUPREME COURT OF THE STATE OF NEVADA

TAVIA BOWSER A/K/A TAVIA
CHANEL BOWSER,
Appellants,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59112

FILED

JUN 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malow
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of four counts of theft. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

Appellant Tavia Bowser contends that insufficient evidence supports her convictions because the State failed to prove that she “did not have the right and authority to control and cash the checks at issue” and used the Nevada Black Police Officer Association (BPA) credit card “without authorization and without reimbursing the organization.” 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 crimes beyond a reasonable doubt. Mitchell v. State, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008).

The jury heard testimony that newly-elected President William Scott discussed irregularities in the BPA’s checking account during the November 29, 2007, Board of Directors meeting. Former President Priscilla Green admitted that she had used a BPA credit card to make personal purchases. Treasurer Bowser was present, did not admit to using a BPA credit card for personal purchases, and told the Board that

the credit cards had all been closed. The Board made it clear that the use of BPA credit cards for personal purchases was not authorized.

After the November meeting, Scott obtained the BPA credit card statements, determined that the credit cards were still active, and found that Bowser was using a credit card to make personal purchases. Scott confronted Bowser and she admitted that most of the charges on the bank statement were for personal purchases. During the meeting that followed, the Board learned that Bowser had used the BPA credit card for personal expenses, issued checks to herself on the BPA checking account, used an ATM card to withdraw cash from the BPA checking account, and paid the monthly BPA credit card bills for her personal purchases with money taken from the BPA checking account. The Board asked Bowser to resign and hired an auditor to determine the extent of the monetary loss.

Further testimony indicated that all of the credit card charges for personal purchases alleged in Count 2 were made after November 29, 2007, and many of Bowser's credit card payments were made after she made unauthorized ATM cash withdrawals from the BPA checking account. Bowser was not authorized to issue checks before she was elected treasurer in July 2007, and any significant expenditure of hundreds of dollars had to be authorized by the board. The Board did not authorize the February 2007 check for \$1,000 or the March 2007 check for \$580, Treasurer Antonio Holmes signed these checks but did not fill them out, and there was no record that their proceeds were used for BPA business. And Bowser cashed the February 2008 check for \$1,500 after telling Scott that she had made a mistake filling it out and Scott told her to void the check—she used \$1,300 to pay down her personal purchases on the BPA credit card and apparently pocketed the remaining \$200.

We conclude that a rational juror could reasonably infer from this testimony that Bowser committed theft when she cashed BPA checks and used a BPA credit card without authorization and without reimbursing BPA for the loss of its money. See NRS 205.0832(1)(a), (b). 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). Accordingly, we

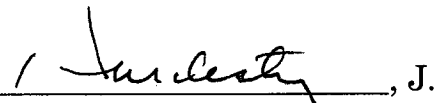
ORDER the judgment of conviction AFFIRMED.



_____, J.
Saitta



_____, J.
Pickering



_____, J.
Hardesty

cc: Hon. James M. Bixler, District Judge
Kirk T. Kennedy
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk