

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUAN CARLOS LUNA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 35582

**FILED**

MAY 10 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of trafficking in a controlled substance. The district court sentenced appellant to twenty-five years in the Nevada State Prison.

Appellant contends the evidence presented at trial was insufficient to support the jury's finding of guilt. Specifically, appellant contends the State failed to prove, beyond a reasonable doubt, appellant was not a procuring agent. Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980).

"A procuring agent is a person who acts, not on one's own behalf or for a supplier, but solely for the recipient. A procuring agent cannot be guilty of selling . . . a controlled substance." Sheriff v. Roylance, 110 Nev. 334, 338, 871 P.2d 359, 361 (1994). The burden rests with the State to prove the defendant was not a procuring agent. Love v. State, 111 Nev. 545, 548, 893 P.2d 376, 378 (1995). Evidence the defendant previously supplied drugs rebuts the procuring agent defense. Hill v. State, 95 Nev. 327, 330, 594 P.2d 699, 701 (1979).

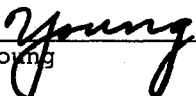


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In particular, we note the State presented evidence appellant had previously sold drugs. Further, evidence indicated appellant was associated with a suspected drug supplier. Also, the arresting officers found significant indicia of drug sales in appellant's apartment: baggies, methamphetamine, cutting agent, a digital scale, a safe, and a video security monitoring system. Additionally, appellant sold a large amount of methamphetamine and was in complete control of the timing, location, and circumstances of the transaction.

The jury could reasonably infer from the evidence presented that appellant was not a procuring agent. 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. See *Bolden v. State*, 97 Nev. 71, 624 P.2d 20 (1981).

Having concluded that appellant's contention lacks merit, we

ORDER this appeal dismissed.

 _____ Young	J.
 _____ Agosti	J.
 _____ Leavitt	J.

cc: Hon. Peter I. Breen, District Judge  
Attorney General  
Washoe County District Attorney  
Bruce D. Voorhees  
Washoe County Clerk