

IN THE SUPREME COURT OF THE STATE OF NEVADA

DOUGLAS WAYNE WEKLUK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35692

FILED

MAY 10 2000

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

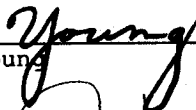
ORDER DISMISSING APPEAL

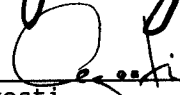
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of attempted grand larceny and one count of burglary. The district court sentenced appellant to 12 to 36 months in prison for attempted grand larceny, and a consecutive term of 36 to 96 months for burglary.


Appellant contends that the district court erred by denying appellant's motion to dismiss the count of burglary and by instructing the jury as to the elements of burglary. Specifically, appellant argues that the vault which he entered was not one of the structures listed in the burglary statute, NRS 205.060. We disagree. The statute defines burglary as the entry into inter alia, any "house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building . . . with the intent to commit grand or petit larceny, assault or battery on any person or any felony." (Emphasis added). In Black's Law Dictionary, a building is defined as a "structure or edifice inclosing a space within its walls, and usually, but not necessarily, covered with a roof." Black's Law Dictionary 176 (5th ed. 1979). Based on the testimony adduced at trial, it is clear that the vault qualifies either as a room or as an other

building. Accordingly, we conclude that appellant's contentions are without merit, and we

ORDER this appeal dismissed.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. J. Michael Memeo, District Judge
Attorney General
Elko County District Attorney
Elko County Public Defender
Elko County Clerk