

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN DANIEL JACKSON,

No. 35934

Appellant,

vs.

FILED

THE STATE OF NEVADA,

AUG 30 2000

Respondent.

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of three counts of driving under the influence (DUI) in violation of NRS 484.379 and NRS 484.3792,¹ and one count of eluding a police officer. The district court sentenced appellant to serve two consecutive terms of 28 to 72 months in the Nevada State Prison. Appellant was also ordered to pay restitution in the amount of \$2,604.44, and given credit for 132 days time served.

Appellant contends the evidence presented at trial was insufficient to sustain the jury's finding of guilt regarding the count of eluding a police officer. More specifically, appellant contends he lacked the willful intent to elude a police officer as required by NRS 484.348.

When reviewing a claim of insufficient evidence, the relevant inquiry is "whether, after viewing the evidence in

¹The district court merged the three counts of DUI related offenses into one count for sentencing.

the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)) (emphasis in original omitted). Furthermore, "it is the jury's function, not that of the court, to assess the weight of the evidence and determine the credibility of witnesses." McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). In other words, a jury "verdict will not be disturbed up on appeal if there is evidence to support it. The evidence cannot be weighed by this court." Azbill v. State, 88 Nev. 240, 252, 495 P.2d 1064, 1072 (1972); see also Nev. Const. art. 6, § 4; NRS 177.025.

Our review of the record on appeal reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. See Origel-Candido, 114 Nev. at 378, 956 P.2d at 1378. In particular, we note that two law enforcement officers parked a prisoner transport vehicle (PTV), with its lights flashing, behind appellant seated inside his car. When one of the uniformed officers approached appellant and identified himself, appellant started the ignition. The officer instructed appellant to turn off the motor; instead, appellant ignored the officer and drove away. The officers pursued appellant in the PTV with its lights flashing and siren sounding, however, appellant refused to stop. Therefore, based on the evidence, a jury could

reasonably infer that appellant was guilty of eluding a police officer.

Having concluded that appellant's contention lacks merit, we

ORDER this appeal dismissed.

Young, J.
Young

Agosti, J.
Agosti

Leavitt, J.
Leavitt

cc: Hon. Steven R. Kosach, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk