

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD G. RENZULLI,

No. 36068

Appellant,

FILED

vs.

THE STATE OF NEVADA,

OCT 25 2000

Respondent.

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of trafficking in a controlled substance in violation of NRS 453.3385. The district court sentenced appellant to a prison term of 20 to 72 months with 30 days credit for time served.

Appellant first argues that the evidence presented at trial was insufficient to support the jury's finding of guilt. 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).

In particular, we note the testimony of appellant's co-defendant and the confidential informant ("CI"), who both stated that appellant sold narcotics to the CI during a controlled buy arranged by the North Central Narcotics Task Force. We conclude that the jury could reasonably infer from the evidence presented that appellant committed the offense of trafficking in a controlled substance.

Appellant asserts that the two witnesses lacked credibility because their testimony was inconsistent or contained contradictions. However, 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). Therefore, we conclude appellant's argument is without merit.

Appellant next argues that he was improperly bound over for trial in the district court. Appellant asserts that he and his counsel were made to wait for two hours at the preliminary hearing while the State prepared for the hearing. Appellant asserts that the State was not prepared to proceed with the preliminary hearing at the time it was scheduled, and therefore, the magistrate improperly bound him over for trial in the district court.

However, even overlooking the fact that appellant failed to object to the delay below, appellant provides this court with no authority for the proposition that this brief delay of the hearing somehow entitles him to relief on appeal. Therefore, we conclude that appellant's argument is without merit.

Finally, appellant argues that the district court incorrectly determined the amount of credit given for time served. Appellant contends that the district court should have given him 215 days credit for time served. At sentencing, appellant also argued that he should receive 215 days credit. The State objected arguing that appellant should only receive 30 days credit because he was serving time for another offense during the remainder of the time. The district court instructed appellant's counsel to prepare a motion and the State to prepare a response on this issue. In the interim, the district court gave appellant 30 days credit for time served. Before appellant's counsel could file the motion, appellant filed a notice of appeal in proper person. Thus, this issue is not ripe for our review because it has not

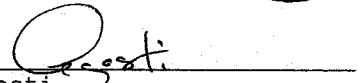
yet been resolved by the district court. Appellant's proper remedy is to file a post-conviction petition for a writ of habeas corpus in the district court. See NRS 34.724.

Having considered appellant's contentions on appeal and concluded they are without merit or not ripe for our review, we affirm the judgment of the district court.

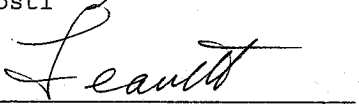
It is so ORDERED.



Shearing J.



Agosti J.



Leavitt J.

cc: Hon. Archie E. Blake, District Judge
Attorney General
Churchill County District Attorney
Jeffrey D. Morrison
Churchill County Clerk