

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VINCENT DEAN CORDOVA, SR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 66362

**FILED**

**MAR 17 2015**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of battery by a prisoner, resisting a public officer, assault upon an officer by a prisoner, and escape. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Appellant first argues that the evidence presented at trial was insufficient to support the jury's finding of guilt of battery by a prisoner, assault upon an officer by a prisoner, and that he attempted to use a weapon while resisting a public officer. Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by any rational trier of fact. *See Origel-Candido v. State*, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

The police officer assigned to guard appellant at the hospital testified that she unshackled appellant to permit him to use the bathroom, but that appellant then attempted to escape from the hospital. She testified that she chased appellant and that on multiple occasions, appellant got into a fighting stance and told her she would have to shoot him to stop him. She testified that she attempted to subdue appellant on


a staircase, but that he wrestled with her. Appellant and a nurse both testified that appellant reached for the officer's Taser while they were on the staircase. The officer also testified that appellant held her down, grabbed at her belt, and attempted to force her hands away from her firearm. Appellant then pushed off of the officer and ran to an elevator. The officer confronted appellant at the elevator<sup>9</sup> and the officer shot appellant in the leg after appellant made a threatening movement towards her. Multiple officers then restrained appellant and transported him to get medical attention for the gunshot wound.

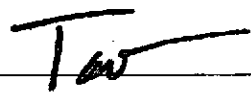
Based on the evidence presented at trial, we conclude that the jury could reasonably find that appellant committed battery by a prisoner, assault upon an officer by a prisoner, and that he attempted to use a weapon while resisting a public officer. See NRS 199.280; NRS 200.471(1); NRS 200.481(1). It 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); see also *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

Second, appellant argues that the district court abused its discretion by imposing the sentences to run consecutively. He argues that the district court failed to follow the legislative purpose of NRS 176.035(1), which he claims is to temper the harshness of the historic practice of running subsequent sentences consecutively. Appellant asserts that all of the convictions arose out of a single incident, the consecutive sentences were arbitrary, and that the sentences were based upon unsupported speculation.

We review a district court's sentencing decision for abuse of discretion. See *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). Here, appellant's sentences fall within the parameters of the relevant statutes. See NRS 199.280(2); NRS 200.471(2)(d); NRS 200.481(2)(f); NRS 212.090(2). A review of the record reveals that the district court did not rely on impalpable or highly suspect evidence. See *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). NRS 176.035(1) plainly gives the district court discretion to run subsequent sentences consecutively. See *Hobbs v. State*, 127 Nev. \_\_\_, \_\_\_, 251 P.3d 177, 179 (2011) ("If the statute's language is clear and unambiguous, we enforce the statute as written."). We conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Patrick Flanagan, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk