


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DERRICK ALONZO SIMPSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68135

FILED

DEC 17 2015

TRACIE K. LINDELMAN
CLERK OF APPEALS COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of battery with the use of a deadly weapon causing substantial bodily harm. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Appellant Derrick Simpson contends the evidence presented at trial was insufficient to support the jury's finding of guilt. Specifically, Simpson claims the State did not present sufficient evidence to establish his identity as the victim's assailant. We disagree.

When reviewing a challenge to the sufficiency of the evidence, we review the evidence in the light most favorable to the prosecution and determine whether "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). "[I]t is the function of the jury, not the appellate court, to weigh the evidence and pass upon the credibility of the witness." *Walker v. State*, 91 Nev. 724, 726, 542 P.2d 438, 439 (1975). And circumstantial evidence is enough to support a conviction. *Lisle v. State*, 113 Nev. 679, 691-92, 941 P.2d 459, 467 (1997), *holding limited on other*

grounds by Middleton v. State, 114 Nev. 1089, 1117 n.9, 968 P.2d 296, 315 n.9 (1998).


Lee Beck testified that while he was walking home a man started yelling at him. Beck recognized the man as someone he had seen in the area before. Beck tried to avoid the man and kept walking, but the man kept coming at him at a faster pace. Beck stopped when the man got real close. The man then attacked Beck, striking him first across the face. Beck tried to grab his assailant and defend himself. The assailant hit him a second time, this time across the neck. Beck struck his assailant and the assailant jogged away. Beck initially believed that his assailant had slapped him, but when he bent over to retrieve his hat, he realized that he was bleeding and there was a lot of blood. Beck walked to a store to get bandages and individuals at the store called the police and paramedics. The police arrived within minutes of Beck entering the store. Beck ultimately received 25 stitches to close the wound in his neck.


Beck described his assailant as an African-American man, approximately six feet tall, mid-30's, with a bald head, goatee, and wearing a black hoodie. Beck also informed the police that his assailant had jogged in the direction of a laundromat. Sergeant Lopez-Rosende heard the description of the suspect and proceeded to the laundromat. In front of the laundromat, he saw Simpson, who matched the description of the assailant. Within a foot of Simpson was a black hoodie and a box cutter. The box cutter had red speckling on it and presumptive tests came back positive for blood. Beck was transported to the laundromat and he identified Simpson as his assailant. At trial, Beck again identified Simpson as his assailant and testified that he had a clear view of Simpson during the attack, he recognized Simpson from seeing him in the area on

prior occasions, and he had recognized Simpson's voice when he heard Simpson yell at the police.

The jury could reasonably infer from the evidence presented that Simpson was the man who attacked Beck and that Simpson cut Beck with a box cutter, causing substantial bodily harm. See NRS 0.060; NRS 200.481(1)(a). 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, 73, 624 P.2d 20, 20 (1981); see also *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). Therefore, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Sanft Law, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk