

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTONIO CHAVEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69360

FILED

JUL 27 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY J. Hendrich
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of two counts of conspiracy to commit robbery, two counts of robbery with the use of a deadly weapon, one count of burglary, and one count of failure to stop on the signal of a police officer resulting in death. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Appellant Antonio Chavez claims insufficient evidence supports his convictions because the State failed to prove he was present at the robberies or was the driver of the stolen car when it crashed. 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).

The jury heard testimony that victim Alberto Cabrera returned home from work just after midnight. As he parked his white Toyota Corolla and made sure it was locked, he was approached by three men: a short Hispanic, a short African American, and a tall, light-skinned African American. The tall man pointed a handgun at Cabrera's head and

the Hispanic man demanded his wallet, phone, and car keys. The three men drove off in Cabrera's Toyota with the short African American driving, the tall man seated in the front passenger seat, and the short Hispanic seated in the back. Cabrera called the police, spoke with detectives, and identified Chavez as the short Hispanic man in a photographic lineup.

Victim Henry Concepcion arrived at the casino where he worked at 4:50 in the morning. As he parked his car in the casino's parking garage, a white Toyota Corolla pulled up behind him and a passenger asked him for directions to I-15 South. The passenger exited the front passenger door, produced a handgun, and announced "this is a robbery." A second man exited the car from a back passenger door. The man with the handgun was tall and appeared to be Latino and the other man was wearing a jacket and hat and his face was concealed with a bandana. They took Concepcion's wallet, phone, keys, and watch. After they drove off, Concepcion called the police with his other phone and provided them with the Toyota Corolla's license plate number. He was unable to identify the driver of the vehicle.

Officer Charles Huff was on patrol when the robbery call came in at about 5:00 a.m. He was wearing a uniform with markings that clearly identified him as a police officer, and he was driving a black and white Ford Explorer with emergency lights and markings that clearly identified the Ford as a police vehicle. Approximately two minutes after receiving the robbery call, Officer Huff spotted the suspect vehicle—a white Toyota sedan with a license plate number that matched five of the six numbers relayed by dispatch. Officer Huff activated his siren and red

and blue emergency lights, and he pursued the Toyota when it failed to pull over.


The Toyota traveled at high speeds through residential areas, endangered pedestrian traffic, ignored stop signs and signal lights, and crossed travel lanes into the oncoming traffic. Officers Thomas Moore and Stephan Trzpis joined the pursuit. They were both wearing police uniforms and driving clearly marked police vehicles with their sirens and emergency lights activated. The officers decided to execute a Pursuit Interdiction Technique (PIT) maneuver to stop the Toyota.


Officer Trzpis performed the PIT maneuver, causing the Toyota to spin sideways, accelerate, and crash into a parking structure with a wrought iron fence. The short Hispanic man exited from the driver side of the vehicle, immediately fled from the crash site, and was pursued by officers on foot. He was captured and identified as Antonio Chavez. The short African-American man exited from a rear passenger door; he was wearing a bandana, was quickly taken into custody, and was identified as Demone Lewis. The tall man remained in the Toyota. He had been impaled by a large metal pole and was suspended over the front passenger seat. Firefighters cut the pole on both sides of his body, removed him from the Toyota, and loaded him into an ambulance. They found a handgun when they cut away his clothing. The tall man was identified as Rajan Sroya; he was of Indian descent and he succumbed to his injuries six weeks after the crash.


Concepcion's wallet, keys, and phone were recovered from the Toyota, and his watch was recovered from Lewis's personal effects at the county jail. Cabrera identified the Toyota as his car.

We conclude a rational juror could reasonably infer from this testimony that Chavez conspired with Lewis and Sroya to rob the two victims, participated in the armed robberies of the victims, entered a victim's car with the intent to steal it, failed to stop on the signal of a police officer, and drove the car in a manner that resulted in Sroya's death. See NRS 193.165(1); NRS 199.480(1); NRS 200.380(1); NRS 205.060(1); NRS 484B.550(1); *Hernandez v. State*, 118 Nev. 513, 531, 50 P.3d 1100, 1112 (2002) (“[C]ircumstantial evidence alone may support a conviction.”). 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 its verdict. See *Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. William D. Kephart, District Judge
Sanft Law, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk