

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEITH STEWART, A/K/A KIETH  
PATRICK STEWART,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 70783

FILED

MAY 24 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

Keith Stewart appeals his conviction for conspiracy to commit robbery. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

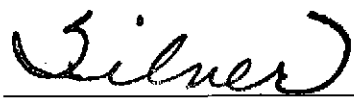
Stewart was convicted by a jury of robbery, battery with intent to commit a crime, and conspiracy to commit robbery. On appeal, Stewart claims insufficient evidence supports his conviction for conspiracy because the State failed to prove beyond a reasonable doubt that two persons robbed the defendant. We review the evidence in the light most favorable to the prosecution and determine whether a "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).

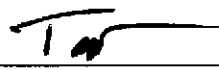
At trial the victim testified that immediately before the robbery he observed two young, black males standing nearby. The victim also testified he was thereafter attacked from behind by two black males, one of whom beat the victim and attempted to take his ring while the other removed the victim's wallet from his back pocket. Officers thereafter found the victim's identification in Stewart's apartment. And, the victim

later recognized Stewart by the distinctive tattoos on Stewart's chest and arm.<sup>1</sup>

Although the victim could not positively say that the two black males he saw standing near the gas station were the same two black males that robbed him later, we conclude a rational juror could reasonably infer from the victim's testimony that Stewart conspired to rob the victim with another unidentified person. See NRS 199.480; NRS 200.380; *Thomas v. State*, 114 Nev. 1127, 1143, 967 P.2d 1111, 1122 (1998) (defining conspiracy as "an agreement between two or more persons for an unlawful purpose," holding it "is seldom susceptible of direct proof and is usually established by inference from the conduct of the parties," and concluding "if a coordinated series of acts furthering the underlying offense is sufficient to infer the existence of an agreement, then sufficient evidence exists to support a conspiracy conviction") (internal quotation marks and citations omitted). 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.  
Silver

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

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

<sup>1</sup>We do not recount the facts except as necessary to our disposition.

cc: Hon. Elissa F. Cadish, District Judge  
Law Offices of Carl E.G. Arnold  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk