

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ISIAH TYRONE GALYEAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72208

FILED

DEC 13 2017

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

ORDER OF AFFIRMANCE

Isiah Tyrone Galyean appeals from a judgment of conviction, pursuant to a jury verdict, of one count each of burglary while in possession of a deadly weapon and battery with the use of a deadly weapon resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Galyean contends the evidence presented at trial was insufficient to support the jury's findings that Galyean was the perpetrator. Sufficient evidence supports a conviction when, "after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Origel-Candido v. State*, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998) (quotation marks omitted); accord *Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

The responding officer testified the victim told him he heard a noise, turned and looked up to see Galyean inside his apartment, and covered up when the object came down to strike him. Viewed in the light most favorable to the State, the jury could reasonably infer from this testimony that Galyean was the perpetrator. See NRS 200.481(2)(e)(2);

NRS 205.060 (4). Although the victim testified at trial he could not recall seeing Galyean, "it 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). Accordingly, we

ORDER the judgment of conviction AFFIRMED.



Silver

C.J.



Tao

J.



Gibbons

J.

cc: Hon. Michelle Leavitt, District Judge
Matsuda & Associates, Ltd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk