

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JIMMIE WAYNE ADAY, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72544

FILED

DEC 28 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Jimmie Wayne Aday, Jr., appeals from a judgment of conviction, pursuant to a jury verdict, of embezzlement and possession of document or personal identifying information.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On August 6, 2016, police officers observed a white Dodge Challenger with Colorado license plates during their patrol and checked the status of the plates.² They discovered a car bearing those plates had been reported stolen or embezzled.

The officers initiated an enforcement stop. The driver and sole occupant identified himself as Aday. The officers searched the car after removing Aday.

Inside the car, the officers found, among other things, a credit card embosser, an electronic credit card scanner, bank statements with third-parties' names on them, several credit and debit cards with third-

¹Aday was also convicted of possession of credit or debit card without cardholder's consent, possession of a controlled substance with intent to sell, and possession of a controlled substance. He does not appeal these convictions.

²We do not recount the facts except as necessary to our disposition.

parties' names on them, an apparently forged \$100 bill, a box containing methamphetamine and marijuana, a small scale, and several glass pipes. They also discovered the car had been rented to Aday on June 4, 2016, and had been due back on June 18, 2016.

Aday was charged with multiple counts and the case proceeded to a jury trial. The jury found Aday guilty of all the theft-related charges except for forgery. Aday appeals from the judgment of conviction challenging the sufficiency of the evidence for two of his convictions – embezzlement and possession of document or personal identifying information.

Having reviewed all of the evidence in the light most favorable to the prosecution, we conclude that there is sufficient evidence to uphold Aday's convictions. *See Thompson v. State*, 125 Nev. 807, 816, 221 P.3d 708, 714-15 (2009) (holding that there is evidence sufficient to support a verdict if, “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” (internal quotation marks omitted) (quoting *Mejia v. State*, 122 Nev. 487, 492, 134 P.3d 722, 725 (2006))).

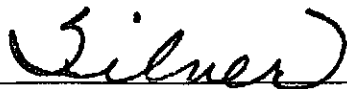
Here, the State presented sufficient evidence to convince a rational trier of fact that Aday had embezzled the car. A representative of the rental car company testified about the limited duration of the rental period under Aday's rental agreement. She also testified that the rental car agency sent Aday a demand letter on June 28, 2016, to return the car. Further, she testified that the credit card on file for Aday's contract was declined when she attempted to process payment for the rental vehicle. The State also presented the testimony of one of the police officers who stopped


Aday and identified him as the driver. The officer described finding a number of personal possessions inside the vehicle belonging to Aday.

The State also offered sufficient evidence to convince a rational trier of fact that Aday had possessed a document or personal identifying information of another person. The State presented the testimony of two police officers who searched the car during the stop. These officers testified that they found bank statements belonging to other people. Further, a detective from the "Forgery Detail within the Theft Crimes Bureau" testified that a notebook was found inside the car that contained "financial information and personal identifying information of an individual." Specifically, the notebook listed the name, date of birth, Social Security number, and full credit card information of a third person.

It is the jury's responsibility to "determine what weight and credibility to give to the testimony." *Stewart v. State*, 94 Nev. 378, 379, 580 P.2d 473, 473 (1978). "Where, as here, there is substantial evidence to support the jury's verdict, it will not be disturbed on appeal." *Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981). Because a rational trier of fact could have relied upon the evidence presented below to find the essential elements of the crimes Aday has appealed beyond a reasonable doubt, we decline to disturb the jury's verdict. *See id.* Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

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