

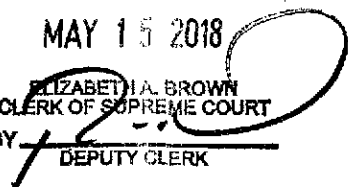
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARQUISE DAVIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72310

FILED

MAY 15 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Marquise Davis appeals from a judgment of conviction entered pursuant to a jury verdict of conspiracy to commit robbery and robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

First, Davis argues the State improperly elicited testimony regarding his prior bad act. Davis asserts a State's witness testified that Davis was a drug dealer and this testimony amounted to improper character evidence. Davis did not object to this testimony, and therefore, he is not entitled to relief absent a demonstration of plain error. *See Valdez v. State*, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008). "In conducting plain error review, we must examine whether there was error, whether the error was plain or clear, and whether the error affected the defendant's substantial rights." *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003) (internal quotation marks omitted).

Our review of the record reveals Davis' assertion regarding this testimony is misplaced. The victim in this matter testified his coworkers knew him by the moniker "G." During the challenged testimony, the State's witness testified he knew the victim as G, was G's coworker, and had heard

that G sold marijuana. As the challenged testimony discussed the victim, and not Davis, we conclude Davis does not demonstrate admission of this information amounted to error affecting his substantial rights.


Second, Davis argues there was insufficient evidence to support the jury's finding of guilt. Davis asserts the verdict was based solely on the victim's testimony, which was self-serving and inconsistent. Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. *See Origel-Candido v. State*, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998); *see also Jackson v. Virginia*, 443 U.S. 307, 319 (1979).


The victim in this matter testified he was acquainted with Davis and agreed to sell him marijuana. Davis arrived at the victim's home to purportedly purchase the marijuana and, after seeing the marijuana, Davis asked if his companion could come inside to use the bathroom. The victim let the companion inside and then noticed the marijuana had been removed from the table. Davis then pointed a firearm at the victim and indicated he should allow Davis to steal his belongings. Davis then gestured to his companion to go upstairs. The victim then pulled out his own pistol, and he and Davis engaged in a shootout. Davis and his companion exited the home, and the victim discovered the majority of his marijuana was missing. Two of the victim's neighbors testified they viewed two men matching the descriptions of Davis and his companion leaving the area together on foot following the exchange of gunfire. The victim later positively identified Davis as the perpetrator during a photo line-up.

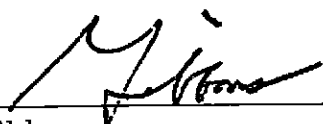
Based on this testimony, the jury could reasonably find Davis committed conspiracy to commit robbery and robbery with the use of a deadly weapon. *See* NRS 193.165(1); NRS 199.480(1); NRS 200.380(1)(a).

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). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

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