

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GENE CURTIS ROPER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74193

FILED

SEP 26 2018

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

ORDER OF AFFIRMANCE

Gene Curtis Roper appeals from a judgment of conviction, pursuant to a jury verdict, for failure of a sex offender to change or update his address. Second Judicial District Court, Washoe County; Kathleen M. Drakulich, Judge.

Roper contends insufficient evidence supported his conviction because, absent his statements to law enforcement, the evidence established only that he moved into a Sparks apartment on February 1, 2017, less than 48 hours before his arrest on February 2, 2017. Thus, he claims, his conviction violates the corpus delicti rule. We disagree.

When reviewing a challenge to the sufficiency of the evidence, 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); accord *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). Circumstantial evidence is enough to support a conviction. *Washington v. State*, 132 Nev. ___, ___, 376 P.3d 802, 807 (2016). Before a defendant’s extrajudicial admissions may be admitted at trial, the State must make a slight or prima facie showing, independent of those admissions, of an act and the criminal agency of that act—or the corpus

delicti. *Gaxiola v. State*, 121 Nev. 638, 650, 119 P.3d 1225, 1233-34 (2005); *State v. Teeter*, 65 Nev. 584, 618, 200 P.2d 657, 674 (1948), *overruled in part on other grounds by Application of Wheeler*, 81 Nev. 495, 406 P.2d 713 (1965).

Here, even without Roper's admissions to law enforcement, sufficient evidence supported his conviction. The State alleged Roper failed to update his address with authorities between November 25, 2016, and February 2, 2017. Roper's sex offender registration records demonstrate he last registered July 7, 2016, as being homeless in Las Vegas. One witness testified Roper lived with him in his Sparks apartment from November 2016 until January 1, 2017. Another witness testified Roper moved into her Sparks apartment two to three days before his February 2, 2017, arrest.

The jury could reasonably infer from the evidence presented that Roper was a sex offender who failed to register his change of address with the proper authorities within 48 hours of the change. *See* NRS 179D.470(1). "[I]t 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). The jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. *See McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.

Silver


_____, J.

Tao


_____, J.

Gibbons

cc: Hon. Kathleen M. Drakulich, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk