

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

COREY HENDERSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74197

FILED

SEP 14 2018

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

ORDER OF AFFIRMANCE

Corey Henderson appeals from a judgment of conviction, entered pursuant to a jury verdict, of conspiracy to commit robbery, battery with intent to commit a crime, robbery, battery with substantial bodily harm, and possession of a controlled substance. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Henderson contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. Specifically, he claims the victim could not identify him as the perpetrator, the bystander described him as "Mexican" but Henderson is not Mexican, the bystander had been drinking, and the surveillance video was unreliable because of the angles of the camera and the fact the faces were not clear on the video. 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); *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). "[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). And circumstantial evidence is enough to support a conviction. *Lisle v. State*, 113 Nev. 679, 691-92, 941 P.2d 459, 467-68 (1997), *holding limited on other grounds by Middleton v. State*, 114 Nev. 1089, 1117 n.9, 968 P.2d 296, 315 n.9 (1998).

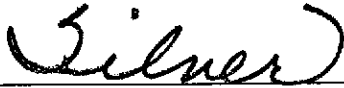
Testimony was presented that Henderson and two others attacked and severely beat a security officer at the Boulder Station Casino. They were attempting to steal the security officer's utility belt, which included a firearm and two additional magazine clips. During the attack, a bystander came up and tried to stop the beating and got punched by Henderson.¹ The three attackers were finally able to get the utility belt and took off. Henderson and one of his codefendants were apprehended in the vicinity of the casino. Henderson was wearing clothing similar to that as seen on the surveillance video, had blood on his jeans and sneakers that was consistent with the victim's blood, and he had a magazine clip in his pants. The police also found cocaine. After being arrested and placed in the police vehicle, Henderson and his codefendant made statements incriminating themselves including "took too long just beating his ass." The bystander, at a show-up just after Henderson was arrested and at trial, identified Henderson as the person who punched him. The security officer suffered fractures to his cheekbones and lost two teeth in the attack.

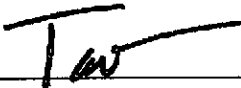
The jury could reasonably infer from the evidence presented that Henderson participated in and was guilty of conspiracy to commit robbery, battery with intent to commit a crime, robbery, battery with substantial bodily harm, and possession of a controlled substance. See NRS 199.480(1); NRS 200.380(1); NRS 200.400(2); NRS 200.481(2)(b); NRS


¹The bystander admitted to drinking one beer prior to the incident.

453.336(1). 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); *see also 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. Michelle Leavitt, District Judge
The Law Office of David R. Fischer
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk