


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KILEY SCOTT GRAYSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73588

FILED

AUG 14 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE


Kiley Scott Grayson appeals from a judgment of conviction, pursuant to a jury verdict, for second-degree murder with the use of a deadly weapon and carrying a concealed firearm. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.


Grayson contends there was insufficient evidence of malice presented at trial to support his conviction for second-degree murder. 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); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

Grayson unlawfully carried a concealed firearm into his former workplace wherein he had recently been verbally abused by the victim, who also worked there. The victim was there and resumed his verbal abuse of Grayson. The victim jabbed Grayson in the head with his cane and stood up, emptying his hands. Grayson, who later told his girlfriend the jab had been "the last straw," then stood up, backed away, and drew his firearm. The victim raised his hands, and Grayson shot him.

The jury could reasonably infer from the evidence presented that Grayson acted with implied malice. See NRS 200.020(2) ("Malice shall be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart."). The Nevada Supreme Court has held implied malice "signifies general malignant recklessness of others' lives and safety or disregard of social duty." *Keys v. State*, 104 Nev. 736, 738, 766 P.2d 270, 271 (1988) (quotation marks omitted). And it "may be inferred from the intentional use of a deadly weapon in a deadly and dangerous manner." *Id.* (quotation marks omitted). Here, drawing the firearm signified a recklessness of others' lives and safety and firing it at an unarmed person with their arms in the air was in disregard of social duty. Further, the weapon was used in a deadly and dangerous manner. We therefore conclude sufficient evidence supported that Grayson acted with malice, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Scott N. Freeman, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk