

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONALD EUGENE ALLEN, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74152-COA

FILED

DEC 14 2018

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

ORDER OF AFFIRMANCE

Ronald Eugene Allen, Jr., appeals from a judgment of conviction, pursuant to a jury verdict, of invasion of the home, burglary while in possession of a deadly weapon, battery with use of a deadly weapon resulting in substantial bodily harm constituting domestic violence, and battery with intent to kill constituting domestic violence. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

Allen was arrested for breaking into his mother's apartment and beating her with a baseball bat, seriously injuring her. The State charged him with invasion of the home, burglary while in possession of a deadly weapon, attempted murder with use of a deadly weapon, battery with use of a deadly weapon resulting in substantial bodily harm constituting domestic violence, and battery with intent to kill constituting domestic violence. At trial, the State presented testimony from the victim and the victim's daughter, who was on the phone with the victim when Allen broke into the home and began to beat the victim. The State also presented other evidence, including testimony from those who were involved with the investigation or the victim's healthcare. The Defense did not present any witnesses, arguing that the State did not prove its case because only the victim's testimony linked Allen to the crime. The jury found Allen guilty of

all charges except an alternative charge of attempted murder with use of a deadly weapon.¹

On appeal, Allen contends that the evidence presented at trial was insufficient to support the jury's findings of guilt. 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). 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). Moreover, so long as the victim testifies with some particularity regarding the incident, the victim's testimony alone is sufficient to uphold a conviction. *Rose v. State*, 123 Nev. 194, 203, 163 P.3d 408, 414 (2007).


Here, the victim testified that Allen broke into her home through a window and beat her. The victim's daughter testified that she overheard glass breaking, her mother exclaim “no, Ronnie, no,” and her mother screaming. A police officer and a detective testified that the victim identified Allen as her attacker immediately following the crime. The State also presented a portion of the victim's 911 call, wherein she identified Allen

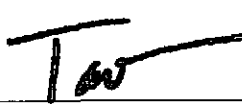
¹We do not recount the facts except as necessary to our disposition.

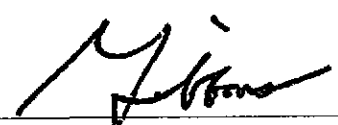
as her attacker, as well as other evidence of the victim's injuries and the crime scene.

The jury could reasonably infer from the evidence presented that Allen committed the charged crimes. See NRS 205.067 (defining invasion of the home); NRS 205.060 (defining burglary); NRS 200.481 (defining battery); NRS 200.485 (defining battery constituting domestic violence); NRS 200.400 (addressing battery with intent to kill); NRS 33.018 (defining acts which constitute domestic violence). 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. Jerry A. Wiese, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk