

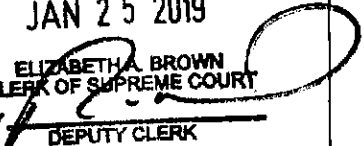
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANDRE JERMAINE RUTLAND,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74216-COA

FILED

JAN 25 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of burglary. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

On appeal, appellant Andre Jermaine Rutland contends that there was insufficient evidence for his conviction because there was no evidence showing what occurred prior to Rutland entering the store, and thus, the State failed to prove that he formed intent to steal prior to entering. We disagree.


“The standard of review for sufficiency of the evidence in a criminal case is whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt, after viewing the evidence in the light most favorable to the prosecution.” *Jackson v. State*, 117 Nev. 116, 122, 17 P.3d 998, 1002 (2001) (internal quotation marks omitted). It is well established that the jury determines the weight of the evidence and credibility of the witnesses. *State v. Thompson*, 31 Nev. 209, 217, 101 P. 557, 560 (1909).


The jury heard a loss prevention officer testify that he observed Rutland enter the store with a messenger bag, grab a shopping handbasket, proceed to the bath and bedding department to select a couple of bath towels, return to the DVD section of the electronics department, repeatedly select


DVDs from the shelf and place them underneath the towel in his handbasket, take the DVDs out of the handbasket and place them into his messenger bag, leave other items at the checkout register without paying, and place his empty handbasket by the entrance of the store before leaving. The jury also heard testimony from a police officer that, upon finally apprehending Rutland in the store parking lot, the officer was unable to find any money or any other form of payment on Rutland, in Rutland's vehicle, or in Rutland's messenger bag. Additionally, the jury heard testimony that the value of the stolen DVDs totaled \$391.85 before taxes. Finally, the jury viewed the store's surveillance camera recording.

We conclude that, in viewing the evidence in a light most favorable to the State, a rational trier of fact could have found Rutland guilty of burglary beyond a reasonable doubt. *See* NRS 205.060(1); *Sharma v. State*, 118 Nev. 648, 659, 56 P.3d 868, 874 (2002) (observing that "intent can rarely be proven by direct evidence of a defendant's state of mind, but instead is inferred by the jury from the individualized, external circumstances of the crime, which are capable of proof at trial"). Based on the foregoing, we

ORDER the judgment of conviction AFFIRMED.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Susan Johnson, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk