

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARTIN W. DOOLEY, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 71424

**FILED**

FEB 23 2017

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

*ORDER OF AFFIRMANCE*

Appellant Martin W. Dooley, Jr., appeals from a judgment of conviction entered pursuant to a jury verdict of preventing a victim from reporting a crime and destroying or injuring property. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Dooley claims insufficient evidence supports his conviction for preventing a victim from reporting a crime. Dooley argues the State failed to demonstrate he intimidated or threatened the victim, he actually prevented the victim from calling the police, and there was a crime for the victim to report. 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).

The jury heard testimony Dooley rented a room at the Victorian Inn, he paid for a week in advance, and he signed a contract in which he agreed he would not receive a refund for any unused portion of his stay. Two days after renting the room, Dooley went to the front office

and told the victim he was checking out and he wanted his money back. He said his room was trashed and he had trashed it. Later that day, Dooley came back to the front desk and "very aggressively demanded" a refund. The victim told him "he was trespassed."

A few days later, Dooley returned to the front desk, swore at the victim, and demanded a refund. The victim told Dooley he had been trespassed, he was not supposed to be there, and she was calling the police. When the victim picked up the phone and started dialing 911, Dooley reached over the counter and grabbed the phone from the victim's hand. The victim felt intimidated and scared, she ran into the back office and locked the door, and she called 911 from another phone. The jury was shown a surveillance video of this incident.

We conclude a rational juror could reasonably infer from this evidence that Dooley intimidated the victim and took a phone away from her to prevent her from reporting his trespass to the police. See NRS 199.305(1); NRS 207.200(1)(b). 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 its verdict. See *Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

Dooley also claims the district court's restitution award was not supported by competent evidence because the only evidence the State presented was the Victorian Inn owner's testimony, and the owner received a windfall because she had planned to renovate the room anyway and the items she sought restitution for would have been subject to the room's renovation.

“Restitution under NRS 176.033(1)(c) is a sentencing determination. On appeal this court generally will not disturb a district court’s sentencing determination so long as it does not rest upon impalpable or highly suspect evidence.” *Martinez v. State*, 115 Nev. 9, 12-13, 974 P.3d 133, 135 (1999).

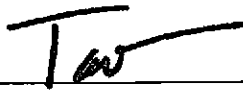
Dooley’s sentencing was continued so the State could present documentation to support the restitution amount the owner of the Victorian Inn sought. When sentencing resumed, Dooley objected to the restitution amount because the State had not provided receipts supporting each item listed by the owner and some of the receipts actually predated the date of the incident. The State provided the district court with a spread sheet and the receipts, and it informed the district court the owner was available to testify about the costs to repair the damage Dooley had caused.

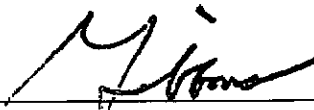
The district court noted the owner had previously purchased backup stock and used her backup stock to replace the items Dooley had broken. The district court asked about the difference between a previous restitution amount of \$2,348.95 and the current restitution amount of \$2,723.95, and the State explained the owner was claiming \$375 in wages she paid to have maintenance personnel protect the victim while the victim worked at the front desk in the weeks that followed this incident. And the district court provided Dooley with an opportunity to cross-examine the owner before rendering its sentencing decision, but Dooley declined. We conclude the district court relied upon evidence that was

reasonably reliable and accurate to set the restitution amount and Dooley has not demonstrated it abused its discretion in this regard.

Having concluded Dooley is not entitled to relief, we  
ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Patrick Flanagan, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk