

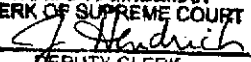
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARCELLA DANCY-JARAMILLO,
A/K/A MARCELLA CAETANA DANCY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69465

FILED

AUG 11 2016

TRACIE K. LINDEMAN
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 battery with use of a deadly weapon resulting in substantial bodily harm constituting domestic violence and battery constituting domestic violence. Eighth Judicial District Court, Clark County; Richard Scotti, Judge.

During a fight, appellant Marcella Dancy-Jaramillo hit her husband, Justin Jaramillo, with a picture frame and cut Justin's scrotum with a piece of broken glass. After a four-day trial, the jury convicted Marcella of battery with use of a deadly weapon resulting in substantial bodily harm constituting domestic violence and battery constituting domestic violence.¹ In this appeal, we primarily consider whether the State's charging document gave adequate notice to Marcella regarding

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

count two and whether sufficient evidence supports Marcella's convictions.²

First, Marcella alleges the information failed to give her adequate notice as to count two, battery constituting domestic violence. We disagree.

The State must inform a defendant of the nature and cause of the charges against the defendant pursuant to the Sixth Amendment to the United States Constitution. *West v. State*, 119 Nev. 410, 419, 75 P.3d 808, 814 (2003). Because this issue is constitutional in nature, we review "de novo whether the charging document complied with constitutional requirements." *Id.*

NRS 173.075(1) provides that an information "must be a plain, concise and definite written statement of the essential facts constituting the offense charged." The information "must be sufficient to apprise the accused of the nature of the offense so that he may adequately prepare a defense." *Laney v. State*, 86 Nev. 173, 178, 466 P.2d 666, 669 (1970). "[W]hen the accused proceeds to trial without challenging the sufficiency of the information or indictment an element of waiver is involved." *Collura v. State*, 97 Nev. 451, 453, 634 P.2d 455, 456 (1981). We "may look to the entire record to determine whether the accused had notice of what later transpired at trial." *Id.* Further, we will not set aside a judgment

²Marcella also argues that her constitutional rights to due process and a fair trial were violated when the jury deliberated for only 15 minutes prior to reaching a verdict. Because Marcella failed to cite any relevant authority to support her claim, we decline to consider it. See *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (this court need not consider arguments that are not supported by relevant authority).

based upon a deficient information “unless the accused is able to affirmatively demonstrate that the information is so insufficient that it results in a miscarriage of justice or actually prejudices him in respect to a substantial right.” *Laney*, 86 Nev. at 177, 466 P.2d at 669.

Here, Marcella proceeded to trial without challenging the sufficiency of the information and by so doing may have waived her argument. *See Collura*, 97 Nev. at 453, 634 P.2d at 456. In fact, Marcella did not object to the sufficiency of the information until the State’s rebuttal closing argument, though the State presented evidence regarding the picture frame at trial and argued its theory both in opening and closing statements. Further, a review of the record indicates that, while the State poorly articulated count two in the information, Marcella was aware of the charges against her. The information provided that Marcella hit, punched, or slapped Justin on June 13, 2015, and further Marcella was aware of a picture of Justin’s arm injury which was ultimately used as an exhibit in the State’s case in chief. We therefore conclude that Marcella failed to demonstrate a miscarriage of justice or actual prejudice to a substantial right.

Marcella next argues there was insufficient evidence presented to convict her of either count. Again, we disagree.

Under 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 crimes beyond a reasonable doubt.” *Rose v. State*, 123 Nev. 194, 202, 163 P.3d 408, 414 (2007) (internal quotations omitted); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). Further, “[a] jury conviction will stand where the record reveals substantial evidence that reasonably supports a

finding of guilt beyond a reasonable doubt.” *Furbay v. State*, 116 Nev. 481, 486, 998 P.2d 553, 556 (2000).

Our review of the record reveals sufficient evidence established Marcella’s guilt beyond a reasonable doubt on both counts. As to count one, battery with use of a deadly weapon resulting in substantially bodily harm constituting domestic violence, the State presented evidence that Justin previously reported that Marcella cut his scrotum with glass from a broken picture frame during the course of an argument which resulted in a ten centimeter laceration to Justin’s scrotum. The State further presented evidence that the cut required surgery, left a scar to Justin’s scrotum, and that Justin suffered prolonged pain from the injury. We therefore conclude that the jury could reasonably find from this evidence that Marcella used unlawful force and a deadly weapon upon Justin, someone with whom she had a domestic relationship, resulting in substantial bodily harm.³ See NRS 200.481(1)(a); NRS 193.165(6)(b); NRS 0.060; NRS 33.018(1)(a).


As to count two, battery constituting domestic violence, the record demonstrates that during their argument, Marcella threw picture frames at Justin and hit his arm when Justin raised his arms defensively to protect himself. Police photographed a fresh laceration and bruise on Justin’s arm. From this evidence, a rational trier of fact could have found

³We also note that although Justin offered testimony at trial contradictory to his previous statements, this does not amount to insufficient evidence, as Marcella contends. Rather, it is the role of the jury, and not the appellate court, to “assess the weight of the evidence and determine the credibility of witnesses.” *Rose*, 123 Nev. at 202-03, 163 P.3d at 414 (internal quotations omitted).

Marcella battered her spouse with unlawful force. See NRS 200.485; NRS 200.481(1)(a); NRS 33.018(1)(a). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

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