

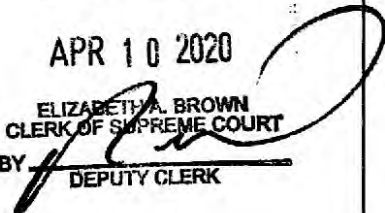
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES LEWIS SCHWAB,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78953-COA

FILED

APR 10 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE


James Lewis Schwab appeals from a judgment of conviction entered pursuant to a jury verdict of assault, a misdemeanor. Fourth Judicial District Court, Elko County; Nancy L. Porter, Judge.


Schwab claims insufficient evidence supports his conviction for assault because the State failed to prove he unlawfully attempted to use physical force against the victim or he placed the victim in reasonable apprehension of immediate bodily harm. 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 State presented the following evidence. The victim’s testimony that Schwab yelled at her, pointed a handgun at her, threatened to shoot her dog, and she was scared. A motel manager’s testimony that she called the police after the victim came into her office “very upset and excited and said that someone pulled a gun on her and told her they were going to shoot her dog.” And the responding law enforcement officers’ testimony that the victim was “visibly shaken,” appeared “scared,” and said that “she felt threatened.”

We conclude a rational juror could reasonably infer from this evidence that Schwab placed the victim in reasonable apprehension of immediate bodily harm. See NRS 200.471(1)(a)(2). 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, sufficient evidence supports its verdict. See *Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981). Accordingly, we

ORDER the judgment of conviction AFFIRMED


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Nancy L. Porter, District Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk