

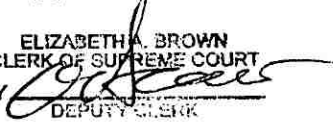
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BURNETT EFFREN BRULEE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85207-COA

FILED

JUN 13, 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Burnett Effren Brulee appeals from a judgment of conviction, entered pursuant to a jury verdict, of malicious destruction of property. Eighth Judicial District Court, Clark County; Elham Roohani, Judge.

Brulee argues there was insufficient evidence to support his conviction. 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); *accord 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).

A person is guilty of malicious destruction of property if he “willfully or maliciously destroy[s] or injure[s] any . . . personal property of another.” NRS 206.310. The mother of Brulee’s daughter testified that she purchased a phone for their daughter and that Brulee destroyed the phone during an altercation. Brulee’s daughter testified that her mother gave her

a phone as a gift and that Brulee destroyed her phone during her parents' altercation.

Brulee does not dispute that the mother of his daughter gifted their daughter a phone and that he wilfully and maliciously destroyed his daughter's phone. Rather, Brulee argues that he had a right to "tamper[] with" or "control" his daughter's phone because his daughter was a minor over whom he had primary custody. Brulee appears to argue that he could not have destroyed the personal property "of another" because he had an ownership interest in his daughter's phone by virtue of the parent-child relationship.

Nevada law recognizes that "[a]ny property acquired by a child by gift . . . is the child's own property, and neither parent is entitled to any interest therein." NRS 123.180(1). Although NRS Chapter 123 is specific to the property rights of married couples, Brulee does not identify, and we have not found, any authority holding that parents have an ownership interest in personal property gifted to their children.¹ Rather, the weight of authority holds to the contrary. *See* 67A C.J.S. *Parent and Child* § 280 (2023) (stating "[a]s a general rule, any property acquired by the child in any way, except by their own labor or services, belongs to the child and not to the parent"); *see also* *Hoblyn v. Johnson*, 55 P.3d 1219, 1228 (Wyo. 2002) (recognizing property gifted to a child belongs to the child and not to the

¹We note that Brulee does not argue that he gave the phone to his daughter or that he did so for the purpose of support, maintenance, or education, which are circumstances in which a parent might retain an interest in the child's personal property. *See, e.g.*, 67A C.J.S. *Parent and Child* § 284 (2023) ("Objects given to the child by the parent by way of support or as necessities, such as clothing and the like, remain the property of the parent and do not belong to the child.").


parent); *Bombardier v. Goodrich*, 110 A. 11, 11 (Vt. 1920) (stating that a “father is the natural guardian of the minor, but this relation only affects his right to the custody of the person, and does not enlarge his rights in the property of the minor”); *Semple Sch. for Girls v. Yielding*, 80 So. 158, 160 (Ala. Ct. App. 1918) (“It is also undoubtedly the law that any property acquired by an infant except by its own labor belongs to the infant, as its separate estate, and the parent has no right in such property.”). Therefore, Brulee fails to demonstrate that he had an ownership interest in his daughter’s phone such that the phone did not belong to another. See *Truesdell v. State*, 129 Nev. 194, 203, 304 P.3d 396, 402 (2013) (stating malicious injury to property requires “that the property belongs to another”).

Considering the evidence presented in the light most favorable to the State, any rational juror could have found beyond a reasonable doubt that Brulee willfully and maliciously destroyed the personal property of another. Therefore, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 11
Hill Firm
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk