

IN THE SUPREME COURT OF THE STATE OF NEVADA

NORMA DUARTE-CHAVEZ,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38095

FILED

DEC 13 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of burglary, forgery, and attempted theft. The district court sentenced appellant to serve two terms of 12 to 30 months in prison and one term of 1 year in jail and ordered that the sentences be served concurrently. The district court then suspended execution of the sentences and placed appellant on probation for 3 years.

Appellant's sole contention is that the State adduced insufficient evidence to support the jury's verdict on each of the charges. In particular, appellant claims that she had no idea that the check she attempted to pass at the bank was forged and, therefore, the State failed to prove, beyond a reasonable doubt, that she had the intent required for each of the charged offenses. We disagree.

When reviewing a claim of insufficient evidence, the relevant inquiry is "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."¹ Furthermore, "it is the jury's function, not that of the court, to assess the weight of the evidence and determine the credibility of witnesses."² Our review of the record on appeal in this case reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact.

¹Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)) (emphasis in original omitted).

²McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

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The defendant entered the bank to cash a check, which she presented to a teller. The teller noticed that the check appeared to have been "washed" and then written over. Out of concern that the check had been forged, the teller contacted the account holder and learned that the account holder had written the check to Clark County Sanitation Department in the amount of \$51.23. The check presented by appellant was made out to appellant in the amount of \$900.00. After speaking with the account holder, the teller contacted the police, who arrested appellant.

The account holder testified that she did not know appellant and had never written a check to her. The account holder also testified that the handwriting and signature on the check passed by appellant were not hers.

Appellant's brother-in-law testified that the check in question was payment for work he did on a woman's car. Because he did not have Nevada identification, he asked the woman to make the check payable to appellant so that she could cash the check for him.

Appellant testified that she accompanied the woman to two different banks on the day in question. Appellant had never met the woman before. At each bank, appellant presented a check payable to her in the amount of \$900.00. The first bank cashed the check and appellant gave the money to the woman as she drove to the second bank.³ The second bank is where appellant was arrested while attempting to cash the second check. Appellant testified that she did not know that the checks had been forged and had no intention of committing a felony when she entered the bank. The police searched the adjacent parking lot after taking a statement from appellant, but never found the woman or truck described by appellant.

The jury could reasonably infer from the evidence presented that appellant had the knowledge and intent required for the charged offenses.⁴ It is for the jury to determine the weight and credibility to give

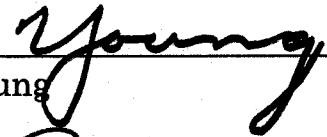
³Police verified that another check for \$900.00 had been successfully cashed at a different branch of the same bank approximately one hour prior to the incident that led to appellant's arrest.

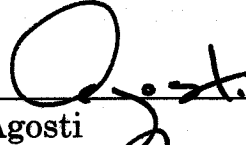
⁴See NRS 205.110 (uttering a forged instrument); NRS 205.0832 (theft); NRS 205.060 (burglary); NRS 193.330 (attempt).

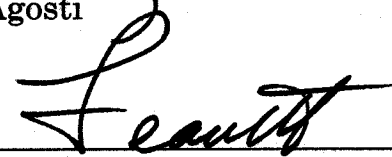
conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the jury's verdict.⁵

Having considered appellant's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. John S. McGroarty, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk

⁵See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981).