

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES PATRICK ANDERSON,

No. 38196

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

DEC 14 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 of theft. The district court sentenced appellant to 12 to 48 months in the Nevada State Prison. The district court suspended execution of the sentence and placed him on probation for a term of 3 years.

Appellant contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact.¹

The record shows that the victims, residents of Las Vegas, paid appellant in advance to perform hauling and construction work related to a parcel of land they had purchased in Pahrump. Appellant promised to perform the work but did not. When the victims attempted to locate appellant to discuss the problem, they found appellant had left town and could not be reached. The victims then contacted a Pahrump representative of a contractors' licensing board, who suggested that they notify the Pahrump sheriff. The sheriff then pursued criminal charges against appellant.

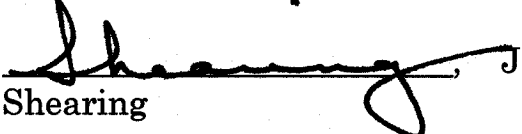
In particular, we note that appellant was convicted under NRS 205.0832(3), which states that a person commits theft if he, without lawful authority, knowingly "[o]btains real, personal or intangible property or the services of another person by a material misrepresentation with intent to deprive that person of the property or services."

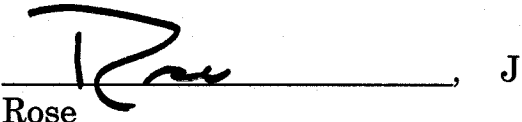
¹See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980).

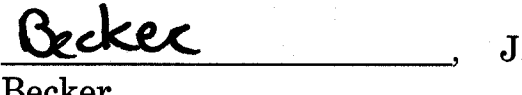
The jury could reasonably infer from the evidence presented that appellant committed theft by knowingly and without lawful authority obtaining money from the victims with the promise that he would perform hauling and construction work related to their property in Pahrump. The jury could reasonably infer further that appellant intended to deprive the victims of their money without performing the promised work. 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 the verdict.²

Appellant further contends that this matter should have been brought to court as a civil contract dispute claim rather than as a criminal case. We conclude that this argument is without merit because the elements of the crime of theft were clearly established. The fact that the victims could have brought a civil suit against the appellant in no way diminishes his criminal liability.

Having concluded that appellant's contentions lack merit, we
ORDER the judgment of the district court AFFIRMED.


_____, J.
Shearing


_____, J.
Rose


_____, J.
Becker

cc: Hon. John P. Davis, District Judge
Attorney General/Carson City
Nye County District Attorney/Pahrump
Nye County District Attorney/Tonopah
Robert T. Knott, Jr.
Nye County Clerk

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