

CLINTON M. RUTHERFORD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

FILED

AUG 21 2025

ELIZABETH A BROWN
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Clinton M. Rutherford appeals from a judgment of conviction, entered pursuant to a jury verdict, of grand larceny, theft of scrap metal, malicious destruction of property, and three counts of conspiracy to commit a crime. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Rutherford argues there was insufficient evidence presented at trial that he was the perpetrator of the crimes. 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). And circumstantial evidence is enough to support a

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conviction. *Washington v. State*, 132 Nev. 655, 661, 376 P.3d 802, 807 (2016).

Rutherford was charged with crimes arising from the taking of copper wire and scrap metal from the inventory yard of Progress Rail, a company that remanufactures locomotive components. D. Lee, an employee of Progress Rail, testified that surveillance video captured multiple individuals entering the yard on three separate occasions (January 3, 9, and 16, 2022), and that numerous locomotive traction motors had wire removed from them and were damaged as a result. Lee explained the wire could not be removed by hand but would require a “very large” cutter “with probably like a three foot, four foot handle.” Lee testified he had reviewed surveillance video depicting a person using loppers to cut and remove copper wire. The State entered into evidence a surveillance video from January 16 depicting two individuals parking a red truck on an adjacent property before walking toward Progress Rail. Lee testified he reviewed surveillance video that depicted the men jumping over the fence separating Progress Rail from the adjacent business and dragging copper wire over to the truck. Detective Papacs testified that during his investigation he identified Rutherford and S. Rodriguez as suspects. The jury heard that Rodriguez had worked with Rutherford, that Rodriguez owned a red Suburban truck, and that a pair of Fiskars loppers were found inside the truck during the execution of a search warrant.

In addition, Lee testified that on January 20, 2022, he found Rutherford’s wallet in the back of the inventory yard, in between a row of traction motors. The wallet, which Papacs testified had not been reported

stolen, contained Rutherford's driver's license, bank debit cards, and a Home Depot receipt for the purchase of Fiskars loppers. The jury saw a surveillance video of the Home Depot purchase transaction, which depicted a man purchasing the loppers.¹ Papacs testified the loppers purchased were 32 inches long and the man in the video wore a silver watch that was "similar looking" to a watch in another surveillance video Papacs had reviewed.

Further, Papacs testified that during a phone call from jail, Rutherford stated "they couldn't identify him" in the Home Depot surveillance video. Papacs described Rutherford stating in a separate phone call "how he helped [Rodriguez] out with a job and implicating him." During cross-examination, Rutherford asked Papacs if he recognized Rutherford from "any surveillance or anything throughout [Papacs'] investigation." Papacs testified that he recognized Rutherford through his identification card and through "other surveillance" video recovered during the investigation.


After the State rested its case, Rutherford called his brother and mother to testify in his defense. Both testified that Rutherford was in New Mexico at the time of the crimes but with varying degrees of certainty regarding the timeline and how Rutherford traveled there. During cross-examination, the State elicited testimony from Rutherford's mother that


¹We note that Rutherford represented himself at trial, so the jury arguably had the ability to adequately compare Rutherford with the individuals depicted in the visual evidence.

she asked Rutherford to tell her the dates of his visit to New Mexico in a phone call that occurred just days before trial.

Considering the evidence presented in the light most favorable to the State, any rational juror could have found beyond a reasonable doubt that Rutherford was the perpetrator. We thus conclude Rutherford is not entitled to relief on this claim, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Michelle Leavitt, District Judge
Brian Rutledge PC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk