

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAJOR JAMES GREEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38392

FILED

MAR 14 2002

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of conspiracy to commit robbery, one count of burglary while in possession of a firearm, one count of robbery with the use of a deadly weapon of a victim over the age of 65, one count of attempted robbery with the use of a deadly weapon of a victim over the age of 65, and one count of grand larceny auto. The district court sentenced appellant: for conspiracy, to a prison term of 13 to 60 months; for burglary, to a concurrent prison term of 35 to 156 months; for robbery, to a concurrent prison term of 35 to 156 months, with an equal and consecutive term for the elder enhancement; for attempted robbery, to a consecutive prison term of 22 to 96 months, with an equal and consecutive term for the elder enhancement; and for grand larceny auto, to a concurrent prison term of 22 to 96 months.

Appellant contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. Specifically, appellant argues that there was insufficient evidence adduced to show that a firearm was used in the commission of the crime, and that there was insufficient evidence to convict appellant of grand larceny auto. 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

In particular, we note that both the victims testified that appellant and another man confronted the victims in the victims' garage. The victims further testified that the other man had a gun which he pointed at one of the victims while appellant demanded money from the other victim. After relieving the victims of money, appellant and the other man demanded the victims' car keys. Appellant and the other man then got in the victims' car and drove off.

The jury could reasonably infer from the evidence presented that appellant and his co-conspirator committed the crimes charged with the use of a firearm and that appellant committed grand larceny. 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 also contends that the district court erred in instructing the jury. Specifically, appellant challenges Jury Instruction No. 14 which stated: "You are instructed that if you find a defendant guilty of Burglary you must also determine whether or not the defendant, or a co-principal of the defendant, possessed a firearm during the commission of the burglary." We conclude that this instruction is a correct statement of the law and that the district court did not therefore err by giving the instruction.³

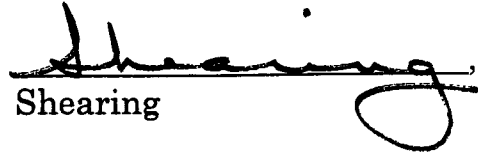
¹See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980).

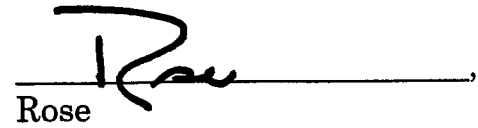
²See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981).

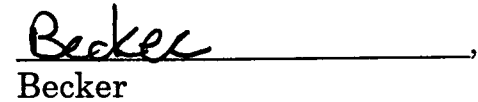
³See Jackson v. State, 117 Nev. ___, 17 P.3d 998 (2001).

Having considered appellant's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.


Shearing J.


Rose J.


Becker J.

cc: Hon. Donald M. Mosley, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk