

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRUNO FRANCISCO LOPEZ-
ALVARADO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 91321-COA

ORDER OF AFFIRMANCE

Bruno Francisco Lopez-Alvarado appeals from a judgment of conviction, entered pursuant to a jury verdict, of battery with the use of a deadly weapon and assault with the use of a deadly weapon. Second Judicial District Court, Washoe County; Hon. Tammy Riggs, Judge.

On appeal, Lopez-Alvarado argues there was insufficient evidence to support his conviction for assault with the use of a deadly weapon. 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). “[C]ircumstantial evidence may constitute the sole basis for a conviction.” *Washington v. State*, 132 Nev. 655, 661, 376 P.3d 802, 807 (2016) (quotation marks omitted).

As relevant here, NRS 200.471 defines “assault” as “[i]ntentionally placing another person in reasonable apprehension of immediate bodily harm.” NRS 200.471(1)(a)(2). Assault is a specific intent crime. *See Powell v. State*, 113 Nev. 258, 263, 934 P.2d 224, 227 (1997); *see also Willson v. First Jud. Dist.*

Ct., 140 Nev. 62, 67, 547 P.3d 122, 130 (Ct. App. 2024) (“Specific intent is the intent to accomplish the precise criminal act that one is later charged with.” (citation modified)). Thus, to sustain a conviction for assault, the State had to prove that (1) Lopez-Alvarado had the specific intent to place the victim in apprehension of immediate bodily harm, (2) the victim apprehended this harm, and (3) Lopez-Alvarado engaged in conduct which made this apprehension reasonable. See NRS 200.471(1)(a)(2); 2 Wayne R. LaFave, *Substantive Criminal Law* § 16.3(b) (3d ed. 2025).

Lopez-Alvarado contends that no reasonable juror could have found he had the ability to form the specific intent to commit an assault, particularly because he presented expert testimony indicating his actions were the result of methamphetamine-induced psychosis. We disagree. At trial, the victim testified as follows. He owned a house, and Lopez-Alvarado rented a room from him. On the day of the offense, his son and grandchildren were at the house doing laundry, and he saw Lopez-Alvarado leave and re-enter the house several times. He found Lopez-Alvarado’s behavior “really weird,” so he retrieved some pepper spray from a kitchen drawer. Eventually, Lopez-Alvarado came out of a bedroom with a “really big” knife and threatened to kill everyone. The victim yelled at his son to call the police, and Lopez-Alvarado ran at him with the knife. The victim sprayed Lopez-Alvarado with pepper spray and ran into a laundry room where his son and grandchildren were located. He feared for his life. Lopez-Alvarado attempted to open the door and said he was going to kill them, but the victim and his son kept pulling the door closed. The victim’s son fired a gun through the door to stop Lopez-Alvarado, but the door subsequently opened, and the son fought with Lopez-Alvarado. During this fight, Lopez-Alvarado stabbed the victim’s son’s hand, but the son was ultimately able to get the knife away from Lopez-Alvarado after hitting

him in the head with the gun several times. Lopez-Alvarado then fled the scene, and the police arrived shortly thereafter.¹

In light of this evidence, a rational jury could conclude beyond a reasonable doubt that Lopez-Alvarado specifically intended to place the victim in apprehension of immediate bodily harm. *See Wilson v. State*, 85 Nev. 88, 90, 450 P.2d 360, 361-62 (1969) (“Since the assaulter’s state of mind is a subjective matter, the trier of the fact must resort to inferences from attendant circumstances to ascertain intent.”). Although Lopez-Alvarado testified that he did not threaten the victim and that he was hearing voices at the time of the offense, and an expert opined that Lopez-Alvarado was suffering from methamphetamine-induced psychosis, such conflicting evidence does not demonstrate that there was insufficient evidence to support the conviction. *See Washington*, 132 Nev. at 661, 376 P.3d at 807 (“The jury is tasked with assessing the weight of the evidence and determining the credibility of witnesses.” (citation modified)); *Lopez v. State*, 105 Nev. 68, 83, 769 P.2d 1276, 1286 (1989) (“Despite the existence of conflicting evidence, a jury verdict will not be disturbed on appeal where, as here, the verdict is supported by substantial evidence.”); *Clark v. State*, 95 Nev. 24, 28, 588 P.2d 1027, 1029 (1979) (stating expert testimony “is not binding on the trier of fact, and the jury was entitled to believe or disbelieve the expert witnesses”). Therefore, we conclude Lopez-Alvarado is not entitled to relief on this claim.

Lopez-Alvarado also argues the district court abused its discretion in giving a voluntary intoxication instruction (Instruction 30) that misstated the law. Instruction 30 read, in relevant part, as follows:

Evidence of voluntary intoxication may therefore be considered in determining the specific intent element

¹The victim’s son and grandchildren corroborated portions of the victim’s testimony at trial.

of Assault With Use of a Deadly Weapon, only. In this regard, the matter to be determined is not whether the defendant's actions resulted from good judgment, rational judgment, or unimpaired judgment, but whether impairment due to voluntary intoxication prevented the defendant from forming the specific intent required for the offense. This evidence should not be considered for any other purpose.²

Lopez-Alvarado contends that this instruction “undermined the ability of the jury to consider whether [he] was capable of rational or unimpaired judgment.” “The district court has broad discretion to settle jury instructions, and this court reviews the district court’s decision for an abuse of that discretion or judicial error.” *Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005). However, we review de novo whether a jury instruction is an accurate statement of the law. *Nay v. State*, 123 Nev. 326, 330, 167 P.3d 430, 433 (2007).

This portion of Instruction 30 stated that the jury was permitted to consider Lopez-Alvarado’s voluntary intoxication in determining whether he had the specific intent to assault the victim. The instruction also stated that the matter to be determined was not whether Lopez-Alvarado’s actions resulted from unimpaired judgment, but whether any impairment prevented Lopez-Alvarado from forming the requisite intent. This instruction was an accurate statement of Nevada law based on the charges in this case.³ See NRS

²The other portions of Instruction 30 largely repeated NRS 193.220 and instructed as to which crimes were specific intent crimes.

³The State was not required to prove that Lopez-Alvarado was sober or unimpaired at the time of the offense or that he exercised good or rational judgment; rather, the State was required to prove only that Lopez-Alvarado had the specific intent to assault the victim. *Cf. State v. Johnny*, 29 Nev. 203, 222-23, 87 P. 3, 9 (1906) (holding a jury was correctly instructed on the law when it was instructed that a defendant’s condition as drunk or sober could be considered but that “[a] man who is drunk may act with premeditation as well

continued on next page . . .

193.220 (stating that, when “the actual existence of any particular purpose, motive or intent is a necessary element to constitute a particular species or degree of crime, the fact of the person’s intoxication may be taken into consideration in determining the purpose, motive or intent”); *see also Matadamas-Serrano v. State*, 142 Nev., Adv. Op. 20, 584 P.3d 793, 805 (2026) (recognizing that voluntary intoxication does not excuse criminal conduct but may negate specific intent); *Tucker v. State*, 92 Nev. 486, 488-89, 553 P.2d 951, 952 (1976) (“Whether intoxication is so gross as to preclude a capacity to form a specific intent is normally a fact issue for the jury to resolve.”). Moreover, we reject Lopez-Alvarado’s claim that Instruction 30 presented an undue risk of confusion. Therefore, we conclude the district court did not abuse its discretion in providing Instruction 30.

For the foregoing reasons, we

ORDER the judgment of conviction AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

as a sober one” and that the jury should consider the difference “between the conditions of mind merely excited by intoxicating drink and yet capable of forming a specific and deliberate intent to take life, and such a prostration of the faculties as renders a man incapable of forming the intent”), *superseded by statute on other grounds as stated in State v. Williams*, 47 Nev. 279, 282-83, 220 P. 555, 556 (1923).

cc: Hon. Tammy Riggs, District Judge
Attorney General/Carson City
Washoe County District Attorney
Washoe County Public Defender
Second District Court Clerk