

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY CLAYTON LEVERETT, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39079

FILED

APR 30 2002

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *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 involuntary manslaughter. The district court sentenced appellant Jerry Clayton Leverett, Jr. to serve a prison term of 19-48 months, and ordered him to pay restitution in the amount of \$25,177.15. The district court suspended the sentence and placed Leverett on probation for an indeterminate period of time not to exceed 60 months; a special condition of his probation was that Leverett serve 12 months in jail.

Leverett contends that the State adduced insufficient evidence at trial to sustain his conviction for involuntary manslaughter. More specifically, Leverett argues that the victim may have fallen and died from the blunt force trauma to his head due to his intoxicated condition and inability to maintain his balance, rather than as a result of being punched or pushed. We disagree with Leverett's contention.

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 Further, "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 In other words, a jury "verdict will not be disturbed upon appeal if there is evidence to support it. The evidence cannot be weighed by this court."³

Our review of the record on appeal reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. NRS 200.070 defines involuntary manslaughter, in part, as "the killing of a human being, without any intent to do so, in the commission of an unlawful act, or a lawful act which probably might produce such a consequence in an unlawful manner." Based on the testimony adduced at trial, it was reasonable for the jury to determine beyond a reasonable doubt that Leverett either pushed or punched the victim, thus causing him to fall backwards off a barstool, and hit his head on the floor. Evidence presented by the State established that the victim died as a result of skull and brain injuries due to blunt force trauma.

¹Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984) (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).


³Azbill v. State, 88 Nev. 240, 252, 495 P.2d 1064, 1072 (1972); see also Nev. Const. art. 6, § 4; NRS 177.025.

Therefore, we conclude that Leverett's contention is without merit.
Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. James W. Hardesty, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk