

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT HUDSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 39118

FILED

AUG 22 2002

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Rubard*  
CHIEF DEPUTY CLERK

ORDER AFFIRMING IN PART AND REMANDING IN PART TO  
CORRECT JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of conspiracy to commit robbery (count I) and robbery with the use of a deadly weapon (count II). The district court sentenced appellant Robert Hudson to serve concurrent prison terms of 12-30 months for count I and 24-60 months for count II, plus an equal and consecutive prison term of 24-60 months for the use of a deadly weapon. Hudson was ordered to pay \$250.00 in restitution jointly and severally with his codefendant, and he was given credit for 192 days time served.

Hudson contends the State adduced insufficient evidence at trial to sustain his conviction on both counts. Hudson argues that the evidence presented by the State "was so slight as to be non-existent," and that his presence at the scene was insufficient to prove his participation. We disagree with Hudson'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.”<sup>1</sup> 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.”<sup>2</sup> 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.”<sup>3</sup> We also note that “[c]ircumstantial evidence alone may sustain a conviction.”<sup>4</sup>

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. In particular, we note that accomplice testimony at trial indicated that Hudson, along with three others, conspired to rob a pizza delivery person.<sup>5</sup> The victim testified that four men approached him, and that Hudson was approximately twelve feet away when he was robbed at gunpoint of his wallet, watch, necklace, and pizzas. All four accomplices fled the scene together, and were later found together by the police in an apartment near the scene of the crime where the victim’s stolen personal items and a pizza were recovered. Therefore, we conclude that Hudson’s contention is without merit.

---

<sup>1</sup>Koza 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).

<sup>2</sup>McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

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

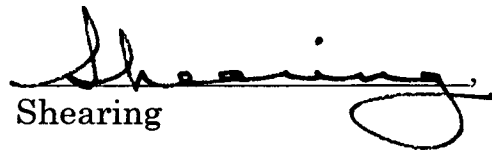
<sup>4</sup>McNair, 108 Nev. at 61, 825 P.2d at 576.

<sup>5</sup>Moore v. State, 117 Nev. \_\_\_, \_\_\_, 27 P.3d 447, 450 (2001) (holding that “the crime of conspiracy is completed when the unlawful agreement is reached”).

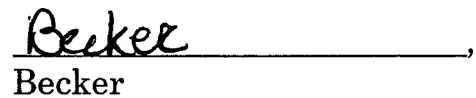
Our review of the judgment of conviction, however, reveals a clerical error. The judgment of conviction states that Hudson was convicted pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. Therefore, we conclude that this matter must be remanded to the district court for the limited purpose of entering a corrected judgment of conviction.

Accordingly, we

ORDER the judgment of conviction AFFIRMED and REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction as directed above.

 J.  
Shearing

 J.  
Rose

 J.  
Becker

cc: Hon. Sally L. Loehrer, District Judge  
McDonald & Brasier  
Attorney General/Carson City  
Clark County District Attorney  
Clark County Clerk