

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL JAMES COOPER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39608

FILED

JAN 16 2003

ORDER OF AFFIRMANCE

JANETTE H. FLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of robbery with the use of a deadly weapon and one count of possession of a firearm by an ex-felon. The district court sentenced appellant: for robbery, to a prison term of 48 to 180 months with an equal and consecutive term for the use of a deadly weapon; and for possession of a firearm by an ex-felon, to a prison term of 13 to 60 months to run concurrently to the robbery term.

Appellant contends that the evidence presented at trial was insufficient to support the jury's finding of guilt with respect to the robbery charge. 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 the victim was able to provide the license plate number of the car the robber was driving and told police that the robber pointed a gun at him and demanded his wallet. The car

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

belonged to appellant's girlfriend who testified that appellant was using the car at the time of the robbery. After the robbery, the car was found parked at appellant's mother's house, and the victim's money clip and a nine millimeter bullet were found in the car. The victim also identified appellant in a photo lineup.

The jury could reasonably infer from the evidence presented that appellant robbed the victim with the use of a firearm. 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 We therefore conclude that appellant's argument that there was insufficient evidence to support the verdict is without merit.

Appellant also contends that the district court erred by giving two jury instructions. The first challenged instruction informed the jury that the testimony of a robbery victim need not be corroborated in order to sustain a verdict of guilty. This instruction is a correct statement of the law, and the district court did not therefore err by giving it.³

Appellant also challenges a flight instruction. However, in light of the evidence of appellant's guilt, even if the instruction was erroneously given, "the error does not require reversal because a review of

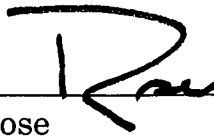
²See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981).


³See Porter v. State, 94 Nev. 142, 146, 576 P.2d 275, 278 (1978).

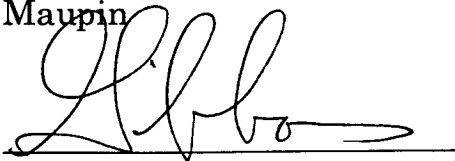
the record indicates neither a miscarriage of justice nor prejudice to appellant's substantial rights."⁴

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. Sally L. Loehrer, District Judge
Kirk T. Kennedy
Robert L. Langford & Associates
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk

⁴Potter v. State, 96 Nev. 875, 876, 619 P.2d 1222, 1222-23 (1980) (citing Ogden v. State, 96 Nev. 258, 607 P.2d 576 (1980)).