

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY PRATT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40361

FILED

FEB 18 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
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 first-degree murder. Appellant Gary Wayne Pratt was sentenced to life in prison without the possibility of parole. Pratt contends that there was insufficient evidence presented at trial to convict him of first-degree murder. We disagree.

“The standard of review for sufficiency of the evidence upon appeal is whether the jury, acting reasonably, could have been convinced of the defendant’s guilt beyond a reasonable doubt.”¹ “[T]he test . . . is not whether this court is convinced of the defendant’s guilt beyond a reasonable doubt, but whether the jury, acting reasonably, could be convinced to that certitude by evidence it had a right to accept.”² Circumstantial evidence is enough to support a conviction.³ The evidence “is to be considered in the light most favorable to the prosecution.”⁴

¹Nika v. State, 113 Nev. 1424, 1434, 951 P.2d 1047, 1054 (1997), overruled on other grounds by Leslie v. Warden, 118 Nev. ___, ___, 59 P.3d 440, 445 (2002).

²Lisle v. State, 113 Nev. 679, 691, 941 P.2d 459, 467 (1997) (quoting Edwards v. State, 90 Nev. 255, 258-59, 524 P.2d 328, 331 (1974)).

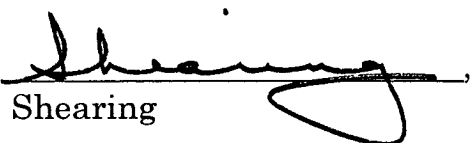
³Id. at 691-92, 941 P.2d at 467.

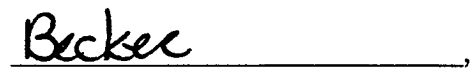
⁴Furbay v. State, 116 Nev. 481, 486, 998 P.2d 553, 556 (2000).

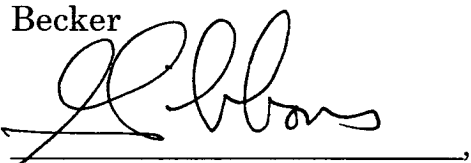
The State presented the following evidence at trial: The police found David Lutes' dead body in the freight house; Pratt was angry at Lutes for stealing his money; when Pratt was intoxicated, he threatened to beat up Lutes on a daily basis; a witness observed Pratt walking to the freight house with Lutes on the day of the murder; Pratt admitted to another inmate that he killed Lutes; Pratt asked two other inmates to destroy evidence; Pratt's body sustained numerous injuries that indicated that Pratt had engaged in a struggle shortly before death; and the crime lab revealed that Lutes' blood was found on Pratt's clothing and Lutes' DNA was found under Pratt's fingernails.

This evidence was sufficient so that a jury, acting reasonably, could have been convinced of Pratt's guilt beyond a reasonable doubt.⁵ We therefore,

ORDER the judgment of conviction AFFIRMED.


Shearing, C.J.


Becker, J.


Gibbons, J.

cc: Hon. Brent T. Adams, District Judge
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁵See West v. State, 119 Nev. ___, ___, 75 P.3d 808, 813 (2003).