

IN THE SUPREME COURT OF THE STATE OF NEVADA

SOROYA FAMBRO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40649

FILED

MAY 13 2003

ORDER OF AFFIRMANCE

JANETTE M. SLOOM
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 home invasion.¹ The district court sentenced appellant Soroya Fambro to serve a prison term of 12-30 months. The district court suspended the sentence and placed Fambro on probation with several conditions for an indeterminate period not to exceed 1 year.

Fambro contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. Fambro argues that it was "nearly impossible" for her to have entered the home of the victim in the manner in which the State alleged, because "it is not rational . . . that this grown woman squeezed in between eight inches of window frame lined with jagged glass." 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.²

¹The jury found appellant not guilty of battery constituting domestic violence, third offense.

²See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Mason v. State, 118 Nev. ___, ___, 51 P.3d 521, 524 (2002) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).

In particular, we note that the victim testified at trial that after having an argument with Fambro, he locked her out of his apartment. Fambro did not leave the premises, however, and she subsequently “kicked the window in and came into the apartment again.” The victim testified that the window was long and rectangular and located by the front door; he estimated the dimensions of the window to be “six feet in length and maybe a foot or so in width.” He also estimated that a person Fambro’s size “could easily wedge themselves . . . through maybe a five inch opening.” When asked by defense counsel if he would be surprised to know that the window was eight inches wide, the victim stated, “It could be eight inches. I never measured it.” One of the police officers who arrived at the apartment also testified that the window was approximately ten to twelve inches wide, and that Fambro sustained visible injuries consistent with being cut by the glass while climbing through the window.

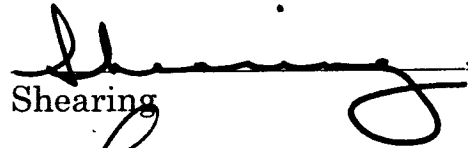
Therefore, based on the above, we conclude that the jury could reasonably infer from the evidence presented that Fambro committed a home invasion.³ It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.⁴


³See NRS 205.067(1); Servin v. State, 117 Nev. 775, 789, 32 P.3d 1277, 1287 (2001) (“[A] defendant is guilty of home invasion if the defendant commits a forcible entry of an inhabited dwelling without permission of the owner, resident, or lawful occupant.”).


⁴See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

Having considered Fambro's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

 J.
Shearing

 J.
Leavitt

 J.
Becker

cc: Hon. Lee A. Gates, District Judge
Clark County Public Defender
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk