

IN THE SUPREME COURT OF THE STATE OF NEVADA

GILBERT LENNOX KENDLE PIERCE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41294

FILED

NOV 07 2003

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 one count of burglary. The district court sentenced appellant to a prison term of 36 to 96 months.

Appellant contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. 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 a police officer observed a car leaving the scene of the crime and rapidly accelerating. The officer chased the car and finally located it in the parking lot of an apartment complex. When the officer located the car, its lights were on, the driver's side door was open and the keys were not in the vehicle. The officer found a wallet in the vehicle containing various cards, all with appellant's name on them. The vehicle turned out to be registered to appellant's girlfriend, who lived in the apartment complex with appellant.


¹See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998).

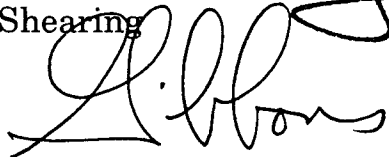
The detective who questioned appellant at the apartment approximately one half hour after the car was observed leaving the scene of the crime testified that appellant was sweaty and appeared to have just "finished a strenuous exercise." Additionally, the only keys to the vehicle were found inside the apartment.

Despite appellant's girlfriend's testimony that appellant was in bed asleep at the time of the burglary, the jury could reasonably infer from the evidence presented that appellant left the apartment, broke into the store, and drove quickly back home, leaving the car parked haphazardly outside. 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

Having concluded that appellant's contention lacks merit, we
ORDER the judgment of conviction AFFIRMED.


_____, J.
Becker


_____, J.
Shearing


_____, J.
Gibbons

²See 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).

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