

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREG BYRAM HILLIARD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 41319

**FILED**

JAN 21 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 one count of invasion of the home. The district court sentenced appellant Greg Byram Hilliard to serve a prison term of 12 to 30 months and then suspended execution of the sentence, placing Hilliard on probation for a time period not to exceed 3 years.

Hilliard contends that there was insufficient evidence that he committed the crime of home invasion because, by acquitting Hilliard of burglary, the jury found that Hilliard had no felonious intent when he entered the apartment. We conclude that Hilliard's contention lacks merit.

First, we note that felonious intent at the time of entry is not an element of the crime of home invasion.<sup>1</sup> Rather, to prove a defendant committed a home invasion, the State must only show that the defendant forcibly entered an inhabited dwelling without permission of the lawful occupant.<sup>2</sup> Second, to the extent that Hilliard argues that the jury

---

<sup>1</sup>Servin v. State, 117 Nev. 775, 789, 32 P.3d 1277, 1287 (2001) ("the offense of home invasion does not necessitate the showing of entry with a specific intent to commit a crime").

<sup>2</sup>NRS 205.067(1); Servin, 117 Nev. at 789, 32 P.3d at 1287.

verdicts were inconsistent, we disagree. Nonetheless, even assuming the verdicts were inconsistent, this court has held that inconsistent verdicts are permitted in Nevada.<sup>3</sup>

Additionally, Hilliard contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. In particular, Hilliard contends that there was insufficient evidence of home invasion because he was a lawful resident of the home he allegedly invaded. Hilliard notes that at trial he presented evidence that he had previously paid two months rent on the apartment using his mother's credit card. 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.<sup>4</sup>

In particular, we note that the victim, Tammy Booth, testified at trial that she had paid the rent on the apartment for the time period at issue, that Hilliard did not have a key to the apartment, and Hilliard did not reside there. Additionally, Booth and two eyewitnesses, who were houseguests on the night at issue, testified at trial that on December 11, 2001, Hilliard knocked on the door of Booth's apartment. When Booth refused to open the door, Hilliard kicked down the door, stepped into the apartment, and attempted to punch Booth. One of Booth's houseguests

---

<sup>3</sup>See, e.g., Bollinger v. State, 111 Nev. 1110, 1116-17, 901 P.2d 671, 675-76 (1995); Brinkman v. State, 95 Nev. 220, 224, 592 P.2d 163, 165 (1979); accord United States v. Powell, 469 U.S. 57 (1984) (holding that inconsistent verdicts may be the result of mistake, compromise, or lenity and that reversal is not required simply because the verdicts are inconsistent).


<sup>4</sup>See 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).

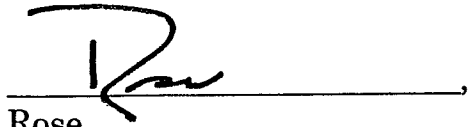
grabbed a baseball bat and chased Hilliard out of the apartment. Subsequently, the other houseguest called the police.

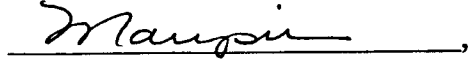
Although Hilliard testified at trial that he lived in the apartment, the jury could reasonably find from the evidence presented that Hilliard did not live in the apartment, but instead forcibly entered the apartment without permission of the lawful occupant when he kicked down the door and stepped inside. 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.<sup>5</sup>

Having considered Hilliard's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

  
Shearing C.J.

  
Rose J.

  
Maupin J.

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

---

<sup>5</sup>See 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).