

IN THE SUPREME COURT OF THE STATE OF NEVADA

VICTOR D. HOLMES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41484

FILED

JAN 09 2004

MANFRED W. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER AFFIRMING BUT REMANDING FOR ENTRY OF A
CORRECTED JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of burglary while in possession of a firearm, conspiracy to commit robbery, and robbery with use of a deadly weapon. Appellant Victor D. Holmes was sentenced to three concurrent terms of ten years to life in prison.

Holmes contends that the evidence was insufficient to support his conviction. In reviewing the evidence supporting a jury's verdict, this court need not be convinced of the defendant's guilt beyond a reasonable doubt; it must instead determine whether the jury, acting reasonably, could have been so convinced by the competent evidence.¹ "The relevant inquiry for this Court is 'whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'"²

The evidence against Holmes was overwhelming. The robbery victim identified Holmes as one of the perpetrators. The jury observed a

¹Wilkins v. State, 96 Nev. 367, 374, 609 P.2d 309, 313 (1980).


²Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984) (quoting Jackson v. Virginia, 443 U.S. 307, 319 (1979)).


surveillance videotape and still frame shots showing Holmes and another person perpetrating the burglary and robbery. A police officer who responded to the reported crimes identified Holmes as one of two suspects in the vicinity that fled into a nearby apartment complex. The police found the revolver apparently used in the crimes in a courtyard at the complex. The police obtained a search warrant and arrested Holmes and another person in an apartment at the complex.

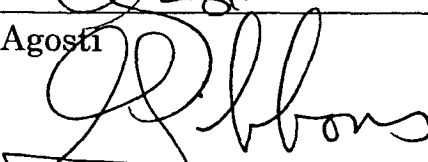
Holmes nevertheless suggests that the evidence is insufficient because the victim described Holmes's accomplice as a woman while the person arrested with Holmes was a man. Regardless of the identity of Holmes's accomplice, the evidence against Holmes remains undiminished. Moreover, the State presented evidence that the man arrested with Holmes was a transvestite who matched the description of the "woman" who committed the crimes.

Holmes received a jury trial, but the judgment of conviction incorrectly states that he entered a plea of guilty. Accordingly, we affirm the judgment of the district court but remand and direct the district court to enter a corrected judgment of conviction.

It is so ORDERED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. John S. McGroarty, District Judge
Paul E. Wommer
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk