

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY PECK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41904

FILED

DEC 13 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 with the use of a deadly weapon (count I) and resisting a public officer with a dangerous weapon (count II). Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant Larry Peck to serve two consecutive terms of life in the Nevada State Prison without the possibility of parole for count I, and a consecutive term of nineteen to forty-eight months for count II.

Peck's sole contention on appeal is that there was insufficient evidence presented at trial to convict him of first-degree murder with the use of a deadly weapon. We disagree.

Evidence is sufficient to uphold a conviction when a reasonable jury 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


¹Nika v. State, 113 Nev. 1424, 1434, 951 P.2d 1047, 1054 (1997), overruled on other grounds by Leslie v. Warden, 118 Nev. 773, 59 P.3d 440 (2002).


right to accept."² Circumstantial evidence is enough to support a conviction,³ and the evidence will be considered in the light most favorable to the prosecution.⁴


We conclude that sufficient evidence was presented at Peck's trial from which a rational jury could find him guilty of first-degree murder with the use of a deadly weapon beyond a reasonable doubt. The State presented evidence that Peck fled a traffic stop and barricaded himself inside a residence. According to several police officers at the scene, Peck threatened to kill an officer. Peck then fired a single armor-piercing bullet from a high-powered rifle. The bullet penetrated a van behind which Reno Police Officer John Bohach was positioned. The steel core hit Officer Bohach and killed him.

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

ORDER the judgment of the district court AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

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).

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