

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALISANDRO BARAJAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41921

FILED

FEB 25 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of trafficking in a controlled substance. The district court sentenced appellant to a prison term of 10 to 25 years. The district court further ordered appellant to pay a fine in the amount of \$50,000.00.

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 appellant appeared to be very nervous when he was stopped for minor traffic violations. The trooper who stopped appellant testified that there was an overwhelming odor of air freshener coming out of the car that appellant was driving and in which appellant was the sole occupant. Appellant was unable to provide the name of the registered owner of the vehicle, despite the fact that appellant claimed he had known the owner for about a month and that the owner had loaned appellant the car so that appellant could drive his belongings from Dallas to Tijuana. Appellant also provided inconsistent


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).

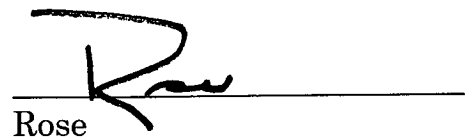
stories about his recent travels. A search of the vehicle revealed nearly four pounds of methamphetamine hidden in the dash.

The jury could reasonably infer from the evidence presented that appellant knew that the controlled substance was hidden in the car, knew that it was a controlled substance, and that appellant was in possession of the controlled substance.² 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.³

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

ORDER the judgment of conviction AFFIRMED.

 C.J.
Shearing

 J.
Rose


Maupin

²See Marshall v. State, 110 Nev. 1328, 1332-33, 885 P.2d 603, 606 (1994) (holding that where contraband is found in a location accessible to the defendant and subject to defendant's control, possession may be imputed); see also Glispey v. Sheriff, 89 Nev 221, 223, 510 P.2d 623, 624 (1973) (holding that constructive possession requires "control or a right to control the contraband").

³See 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