

IN THE SUPREME COURT OF THE STATE OF NEVADA

JIMMIE ANDREWS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42336

FILED

APR 13 2004

ORDER OF AFFIRMANCE

JANETIE 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 unlawful sale of a controlled substance within 1000 feet of an arcade (count I), conspiracy to possess a controlled substance (count II), and maintaining a place for the purpose of selling a controlled substance (count III). The district court sentenced appellant Jimmie Andrews to serve two consecutive prison terms of 18 to 72 months for count I, a concurrent prison term of 12 to 48 months for count II, and a concurrent prison term of 12 to 48 months for count III.

Andrews' sole contention is that the evidence presented at trial was insufficient to support the jury's finding of guilt. In particular, Andrews contends that no rational trier of fact could have convicted him of an offense involving a controlled substance in light of the fact that: (1) no buy money was found on his person; (2) after his arrest, Andrews consented to a search of his motel room; and (3) no drugs, scales, weapons, drug paraphernalia, drug packaging materials, or pay-owe sheets were found in his motel room. Although Andrews concedes that cocaine was found on his person at the time of his arrest, he alleges that the cocaine was crushed and, therefore, different in consistency than the rock cocaine sold to the undercover narcotics officer. 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, Reno Police Officer Scott Shaw testified that, during the course of an undercover drug operation, he told two individuals named Hansen and Black that he was looking to purchase two rocks of cocaine. Hansen and Black agreed to purchase the drugs for Officer Shaw in exchange for a "pinch" of the drug. In the course of surveilling the undercover drug operation, Reno Police Officer Steve Schnittger testified that he observed Hansen have a brief conversation with Andrews on the balcony of his motel, and then enter room 208 for one or two minutes.² As the two individuals exited the motel room, Officer Schnittger observed Hansen attempt to hand Andrews the buy money. Initially, Andrews reached out to grab the money, but after apparently noticing the uniformed officers approach, Andrews dropped his hand, tipped his head down, and proceeded to walk past Hansen. Reno Police Officer Dave Nellis testified that he arrested Andrews and, during the course of a pat-down search, approximately three-tenths of one gram of rock cocaine fell out of Andrews' right pant leg onto the ground.

Despite the fact that Andrews was cooperative with law enforcement and did not have evidence of drug trafficking in his motel room, the jury could reasonably infer from the evidence presented that Andrews engaged in the charged offenses involving the controlled

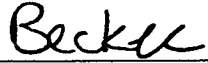
¹See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998).

²A motel employee testified that Andrews had rented room 208 for one night and paid cash.

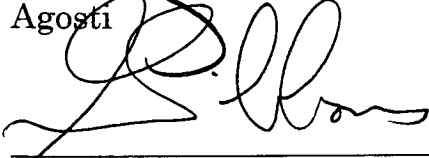
substance. It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.³

Having considered Andrews' contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

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

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).