

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMAL JAMES THEUS A/K/A JAMAL  
JAMES THUES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 42504

FILED

APR 26 2004

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

ORDER OF AFFIRMANCE AND LIMITED REMAND TO CORRECT  
THE JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of battery constituting domestic violence. The district court sentenced appellant Jamal James Theus to serve a prison term of 12 to 34 months.

Theus contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. Specifically, Theus argues that there was no evidence presented that he dragged the victim. 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>1</sup>

In particular, Deborah Dawes, a concerned neighbor, testified that she called 9-1-1 after she was awakened at 4:30 a.m. by a female outside her apartment window yelling: "Help me. Help me. Somebody help me." Las Vegas Metropolitan Police Officer Jason Rose responded to the scene and observed the female victim on the ground; she was crying

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<sup>1</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).

and upset. Theus, who was sitting next to the victim, told Rose that he had "pulled" the victim across the grass.

The victim also testified at trial, describing how she had argued with Theus, her former boyfriend, and he started "getting all upset and rowdy." During the course of the argument, Theus disconnected the fire alarms in the apartment, explaining that he thought someone was using them to listen or watch the apartment. The victim ran out of the apartment because "she felt safer outside because neighbors are outside." The victim testified that Theus chased her across the apartment complex parking lot, grabbed her from behind around her arms and shoulders, and picked her up, in an attempt to carry her back into the apartment. The victim managed to squirm away, but Theus grabbed her again. Theus then tried to drag the victim back towards the apartment, but she got away again and ended up sitting down, holding on to the metal bars of an apartment security door. Theus tried to pry the victim's arms off the metal bars of the door and asked her to come back inside the apartment. When the police arrived, the victim refused to give a written voluntary statement, explaining at trial that she just wanted Theus to leave. According to the victim, she did not sustain any physical injuries, except for minor scrapes on her feet from running on rocks since she was barefoot when she fled the apartment.

Although Officer Rose testified that Theus told him that he "pulled" the victim,<sup>2</sup> and the victim testified that she sustained no injuries,

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<sup>2</sup>In closing arguments, defense counsel argued that "pulling is a distinct term from dragging" because "[p]ulling implies something much less forceful" and "[a] person can pull someone cordially in a jocular manner, in a joking fashion."

the jury could reasonably infer from the evidence presented that Theus committed battery constituting domestic violence by dragging his girlfriend.<sup>3</sup> 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>4</sup>

Having considered Theus's contention and concluded that it lacks merit, we affirm the judgment of conviction. However, our review of the judgment of conviction reveals a clerical error. The judgment of conviction states that Theus was convicted pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. We therefore conclude that this matter should be remanded to the district court for the correction of the judgment of conviction. Accordingly, we

ORDER the judgment of the district court AFFIRMED and REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction.

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Gibbons

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<sup>3</sup>See NRS 200.485(8); NRS 200.481(1); NRS 33.018.

<sup>4</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).

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