

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES VINCENT GOLDEN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65018

**FILED**

**FEB 24 2015**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of three counts of principal to grand larceny. Third Judicial District Court, Lyon County; William Rogers, Judge.

Appellant James Vincent Golden contends that, because the witnesses who provided incriminating testimony were biased and there was no confession or physical evidence linking him to the crimes, insufficient evidence supports his convictions. We disagree.

When reviewing a challenge to the sufficiency of the evidence, we review the evidence in the light most favorable to the prosecution and determine whether “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). “[I]t is the function of the jury, not the appellate court, to weigh the evidence and pass upon the credibility of the witness.” *Walker v. State*, 91 Nev. 724, 726, 542 P.2d 438, 439 (1975).

The jury heard testimony that Road and Highway Builders leased the property at the Haywood Quarry/Mine from Golden’s company Decommissioning Services. In addition to mining equipment and a trailer,

Road and Highway Builders stored some "I" beams and "H" beams on the property. Road and Highway Builders did not hire or authorize anyone to take property from the site.

Golden engaged the services of Advanced Recycling and Crushing to collect scrap metal from the property. He told Doug Lippincott, the owner of Advanced Recycling and Crushing, that he owned the Hayward Mine and Road and Highway Builders had abandoned equipment on the property. Golden further told Lippincott that Jim Guthrie would oversee the work, Donald "Brett" Holmes was his employee, and Denise Moshetti was his girlfriend. Golden told Lippincott that he should give a cash advance to Guthrie and a check to Moshetti and that Moshetti in turn would give the check to Golden. Lippincott testified that he believed Golden was in charge of the operation and that he was under orders to make sure that Golden knew everything that was going on in the operation.


Lippincott collected scrap material from the property on several days. On the first two days, January 7 and 8, Lippincott collected approximately 16 tons of scrap metal, which was collected from various piles and may have included a bent conveyor. Lippincott collected approximately 20.6 tons of material on January 21, and on January 25, he had intended to take an additional 180 tons of materials. Although the majority of the items taken from the property had been marked, Golden also directed Lippincott to take some materials that were not marked and Lippincott confirmed which materials to take with Golden. Golden specifically directed Lippincott to take "I" beams from the property. Lippincott could not recall how many "I" beams he took from the site however; he testified that he collected "I" beams on two different

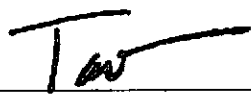
occasions, one time cutting up the beams to take them and the other time taking them whole.

Lippincott issued three checks for the materials collected from the property, all of which Lippincott believed were ultimately for the benefit of Golden. The first, in the amount of \$2,700, was made out to Moshetti. The second, in the amount of \$3,000, was an advance payment that was issued at the request of Golden and was made out to Holmes. The third, in the amount of \$3,620, was also made out to Holmes. Holmes testified that the third check was made out to him because Golden's bank was not open on Saturdays. Holmes further testified that Golden was with him when he picked up the check and they went to Holmes' bank that day to cash the check. After the check was cashed, Holmes gave the money to Golden.

The jury could reasonably infer from the evidence presented that Golden intentionally, directly or indirectly stole, took, or carried away property, owned by another, with a value of \$650 or more, on three separate occasions. *See* NRS 205.220(1)(a). We will not disturb the jury's verdict where, as here, substantial evidence supports the verdict. *See Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981); *see also McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. William Rogers, District Judge  
Hardy Law Group  
Attorney General/Carson City  
Lyon County District Attorney  
Third District Court Clerk