IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AMY ELIZABETH SANDY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74731

ORDER OF AFFIRMANCE

Amy Elizabeth Sandy appeals from a judgment of conviction pursuant to a jury verdict of abuse or neglect of a vulnerable person. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

Sandy left her disabled daughter Elizabeth at home for a period of at least 24 hours, and Elizabeth was found wearing a diaper overflowing with fecal material.[1] An emergency medical technician who responded to the home discovered open sores on Elizabeth's buttocks. Sandy was arrested and charged with one count of abuse or neglect of a vulnerable person. Among the witnesses at trial, the jury heard testimony from an EMT who responded to the home in Sandy's absence and from the administrator of the care center where Elizabeth was admitted after a stay in a local hospital. The jury convicted Sandy of the one charged gross misdemeanor offense, and the court sentenced her to 364 days in jail.

On appeal, Sandy asserts that: (1) insufficient evidence supported the conviction of abuse or neglect of a vulnerable person; and (2) the district court abused its discretion in allowing opinion testimony from lay witnesses.

[1]We do not recount the facts except as necessary to our disposition.

18-902508

We consider whether sufficient evidence supported Sandy's conviction. Reviewing a challenge to the sufficiency of evidence supporting a criminal conviction, this court considers "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)) (internal quotation marks omitted). The jury weighs the evidence and the credibility of the witnesses and determines whether these are sufficient to meet the elements of the crime, and this court will not disturb a verdict that is supported by substantial evidence. *Id.*

NRS 200.5099(2)[2] provides that:

> any person who has assumed responsibility, legally, voluntarily or pursuant to a contract, to care for . . . a vulnerable person and who: (a) [n]eglects the . . . vulnerable person, causing the . . . vulnerable person to suffer physical pain or mental suffering; (b) [p]ermits or allows the . . . vulnerable person to suffer unjustifiable physical pain or mental suffering; or (c) [p]ermits or allows the . . . vulnerable person to be placed in a situation where the . . . vulnerable person may suffer physical pain or mental suffering as the result of abuse or neglect, is guilty of a gross misdemeanor . . . .

Section 9 adds:

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[2]In 2017, the Legislature amended NRS 200.5099(2). 2017 Nev. Stat., ch. 422, § 2 at 2835-37. The amendment added new penalties, but otherwise the statute's substance did not change pertinent to this appeal, only the numbering of subsections. Sandy was charged under the earlier version, 2013 Nev. Stat., ch. 229, § 4 at 978-79, as provided here.

> (a) "Allow" means to take no action to prevent or stop the abuse or neglect of . . . a vulnerable person if the person knows or has reason to know that the . . . vulnerable person is being abused or neglected. (b) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of . . . a vulnerable person.

Here, the State presented substantial evidence from which a rational jury could find Sandy guilty of permitting or allowing Elizabeth to suffer unjustifiable physical pain or mental suffering or to be placed in a situation where she may suffer physical pain or mental suffering.[3] The police officer and emergency medical technician/firefighter who responded to the home testified that they found Elizabeth in a diaper overflowing with feces, both wet and dry, lying in bedsheets stained with feces, and with open sores on her buttocks. Also, multiple witnesses testified to the intolerably foul odor in Elizabeth's room. Further, the record shows conflicting testimony and confusion regarding whom Sandy charged with caring for Elizabeth during Sandy's absence. And, those who were on hand did not appear to be reliable caregivers: namely, an active methamphetamine

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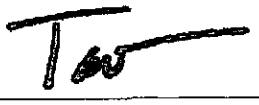
[3]Sandy quotes the supreme court in *Vallery v. State*, 118 Nev. 357, 46 P.3d 66 (2002) to suggest that a *mens rea* of willfulness is required to find her guilty of neglect. But that case reached the opposite conclusion. It noted that a 1995 amendment to NRS 200.5099 removed language requiring willfulness from the statute and added the current language "allow[ing]" or "permit[ting]" neglect. *Id.* at 370, 46 P.3d at 75. Consequently, the supreme court concluded that "a conviction under the 'neglect,' 'permit' or 'allow' sections of NRS 200.5099 only requires proof that an accused knew or had reason to know that an older [or vulnerable] person could suffer harm as a result of the accused's actions or failure to act." *Id.* The 2013 version of the statute under which Sandy was charged contains no willfulness requirement.

addict and minors who did not know how to change Elizabeth's diapers. Therefore, viewing the evidence in the light most favorable to the prosecution, we conclude it was sufficient to support the verdict.[4]

Accordingly, we

ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Silver



_____, J.
Tao

_____, J.
Gibbons

cc: Hon. Steve L. Dobrescu, District Judge
Sears Law Firm, Ltd.
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk

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[4]Sandy also argues that the district court erred in allowing testimony from William Botelho, the emergency medical technician/firefighter who responded to the home, and Michelle Gardner, administrator of White Pine Care Center. But we note that she provides no relevant authority to support this argument. Sandy provides no authority whatsoever to support her argument as to Botelho. And, she cites no statutes and only a single factually inapposite civil case, *Sanders v. Sears-Page*, 131 Nev. 500, 354 P.3d 201 (Ct. App. 2015), to argue that Gardner gave improper undisclosed testimony, but fails to explain why that case is relevant. Further, the record belies her argument as to Gardner. Thus, we need not address this issue. *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (stating that issues not supported by relevant authority and cogent argument need not be addressed by this court).