

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JASON CHRISTOPHER LASSLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78962-COA

FILED

FEB 11 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jason Christopher Lassley appeals from a judgment of conviction, entered pursuant to a jury verdict, of possession of a controlled substance. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

First, Lassley argues there was insufficient evidence presented at trial that he constructively possessed the controlled substance. Specifically, he claims there were two people in the vehicle and no one saw who threw the controlled substances out the window. In addition, Lassley asserts there were no controlled substances found on his person or within his proximity in the car. 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. *See Origel-Candido v. State*, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

Early in the morning, officers received a call that shots had been fired. The officers, in two separate patrol cars, went to the area and observed a car driving erratically. After witnessing the car failing to stop at two stop signs, the officers pulled the vehicle over. Lassley was the

passenger in the vehicle. One of the officers watched the driver and saw that his hands were on the steering wheel. At the same time, the officer saw an object being thrown from the passenger window. The officers ordered both occupants out of the vehicle. One of the officers went to where they saw the object being thrown from the vehicle and found a blue bandana, a pipe, and a Tupperware container containing two baggies that appeared to contain a small amount of methamphetamine. Lab tests later confirmed it was methamphetamine. Lassley was placed under arrest, and when he was searched, a scale was found in his pocket. An officer testified that scales are often used in drug transactions by both the seller and the buyer. The officer also testified that when exiting the vehicle, Lassley kept looking over his shoulder at where the object had been thrown from the vehicle. Finally, the driver of the vehicle testified he did not throw anything from the vehicle.

The jury could have reasonably inferred from the evidence presented that Lassley constructively possessed the controlled substance. See NRS 453.336(1); *Glipsey v. Sheriff, Carson City*, 89 Nev. 221, 223, 510 P.2d 623, 624 (1973) (“The accused has constructive possession only if she maintains control or a right to control the contraband.”). Specifically, the jury could infer Lassley was the person who threw the drugs from the window and he knew what he threw from the window was an illegal controlled substance. Circumstantial evidence is enough to support a conviction, *Lisle v. State*, 113 Nev. 679, 691-92, 941 P.2d 459, 467-68 (1997), holding limited on other grounds by *Middleton v. State*, 114 Nev. 1089, 1117 n.9, 968 P.2d 296, 315 n.9 (1998), and the jury’s verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict, see *Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

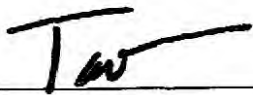
Second, Lassley argues the district court abused its discretion by admitting evidence of the scale found in Lassley's pocket during the search incident to arrest. Lassley argues the evidence was not relevant and the probative value was substantially outweighed by the danger of unfair prejudice.

"We review a district court's decision to admit or exclude evidence for an abuse of discretion." *Mclellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). All relevant evidence is generally admissible unless its probative value is substantially outweighed by the danger of unfair prejudice. See NRS 48.025.

After holding a hearing on this issue, the district court determined the evidence was relevant and the probative value was not substantially outweighed by unfair prejudice. Further, the district court found the issues with respect to the scale went to the weight of the evidence, not admissibility. The district court's decision is supported by substantial evidence, and we conclude the district court did not abuse its discretion by admitting the evidence of the scale.

Having concluded Lassley is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Steve L. Dobrescu, District Judge
Kirsty E. Pickering, Attorney at Law
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk