

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MAALIKA DABNEY, A/K/A MALINKA
MICKEL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84648-COA

FILED

MAR 24 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
B. [Signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

Maalika Dabney appeals from a judgment of conviction, entered pursuant to a jury verdict, of attempted murder with the use of a deadly weapon; felony discharge of a firearm from or within a structure or vehicle; and child abuse, neglect, or endangerment with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Dabney argues there was insufficient evidence presented at trial that she was the perpetrator of the crimes. 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); accord *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). And circumstantial evidence is enough to support a

conviction. *Washington v. State*, 132 Nev. 655, 662, 376 P.3d 802, 807 (2016).

Officer Cook testified he was putting gas in his undercover police vehicle when he witnessed an altercation between a group of five people and the victim. The victim had a small female child with him. After the altercation, three of the people involved (two women and a man) got into an SUV. Cook testified that Dabney got into the driver's side rear seat, the man got into the passenger's side front seat, and the other woman was driving. The SUV left but came back approximately 10 to 15 seconds later. Cook saw Dabney extend her arm, point the gun toward the victim, and fire from the driver's side rear window of the SUV. Cook observed the victim grab his daughter and shield her.

The victim testified that he was with his son and 4-year-old daughter when a group of people confronted him. When the altercation ended, the more aggressive of the two women involved got into the back seat of the SUV before it left. When the SUV returned, the aggressive woman said something to get the victim's attention before pulling out a gun, pointing it at him, and firing a single shot. The victim was close to his daughter and attempted to shield her. Officer Cook pursued the SUV to a nearby casino where Dabney exited the driver's side rear door, fled inside the casino, and entered a restroom before being apprehended. Two pistols were found inside the restroom garbage can. One of the pistols was consistent with a gun box found in the back seat of the SUV.

Considering the evidence presented in the light most favorable to the State, any rational juror could have found beyond a reasonable doubt

that Dabney was the perpetrator. We thus conclude Dabney is not entitled to relief on this claim, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Michelle Leavitt, District Judge
Mayfield, Gruber & Sanft/Las Vegas
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk