


IN THE SUPREME COURT OF THE STATE OF NEVADA

JUSTIN MICHAEL MULLIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86098

FILED

FEB 15 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of first-degree murder with the use of a deadly weapon and concealing or destroying the evidence of the commission of a felony.¹ Fourth Judicial District Court, Elko County; Mason E. Simons, Judge.

Appellant Justin Michael Mullis first argues that insufficient evidence supports the conviction for first-degree murder. Mullis points to evidence of an abusive childhood, of deficiencies in impulse control and cognitive development, and of drug use and a heated argument with a girlfriend immediately before the shooting to argue that the jury could not have found the requisite intent for first-degree murder. We disagree. When reviewing the sufficiency of the evidence supporting a criminal conviction, we consider “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.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see also Origel-Candido v. State*, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998). Here, the State presented evidence that, after the heated argument with his girlfriend, Mullis walked to a gas station and

¹Pursuant to NRAP 34(f)(1), we conclude that oral argument is not warranted.


then to the drive-through window where the victim was working. While wearing a bandana around the face, Mullis held a gun with two hands, pointed it at the victim, tracked the victim's movement, and shot one time into the victim's back. A forensic psychiatrist examined Mullis and opined that there was no mental health reason why Mullis could not have had the ability to premeditate and deliberate the killing, namely because of the high level of organization in Mullis' thinking and behavior. Although Mullis presented expert testimony to the contrary, "it is the jury's function, not that of the court, to assess the weight of the evidence and determine the credibility of witnesses." *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). We conclude the State presented sufficient evidence from which a rational trier of fact could have found the elements of first-degree murder beyond a reasonable doubt. See NRS 200.010 (defining murder); NRS 200.020 (defining malice); NRS 200.030(1)(a) (identifying a willful, deliberate, and premeditated killing as first-degree murder); *Byford v. State*, 116 Nev. 215, 236-37, 994 P.2d 700, 714-15 (2000) (providing that "[a] deliberate determination may be arrived at in a short period of time" and that premeditation "may be as instantaneous as successive thoughts of the mind" before stating that "[t]he true test is not the duration of time, but rather the extent of the reflection").

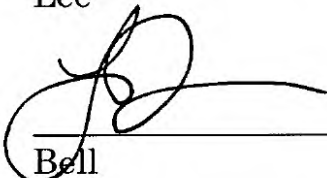
Mullis next argues that the sentence imposed for first-degree murder—life without the possibility of parole—constitutes cruel and unusual punishment. Mullis contends that the sentence shocks the conscience given the crime's random nature, Mullis' mental health and cognitive issues, and the abuse Mullis experienced as a child. After the jury returned its verdict of guilt, Mullis stipulated to the sentence as part of an agreement with the State and thus waived the right the challenge the

propriety of the sentence. *See Burns v. State*, 137 Nev. 494, 504, 495 P.3d 1091, 1102-03 (2021). Further, Mullis' sentence was within the statutory limits, *see* NRS 200.030(4)(b)(1), and was not "unreasonably disproportionate to the offense," *Blume v. State*, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) ("A sentence within the statutory limits is not cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience." (internal quotation marks omitted)). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Herndon


_____, J.
Lee


_____, J.
Bell

cc: Hon. Mason E. Simons, District Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk