IN THE SUPREME COURT OF THE STATE OF NEVADA

JARICK JERMEL WILLIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85552

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of first-degree kidnapping resulting in substantial bodily harm, attempted murder, child abuse resulting in substantial bodily harm, and child abuse, neglect, or endangerment. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

First, appellant Jarick Jermel Willis argues that insufficient evidence supports the convictions. 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 elements of the offense beyond a reasonable doubt. *Franks v. State*, 135 Nev. 1, 7, 432 P.3d 752, 757 (2019); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see also McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) ("It is the jury's function, not that of the court, to assess the weight of the evidence and determine the credibility of witnesses.").

The State presented evidence that Willis threw a five-year-old girl from the third-story balcony of her family's Las Vegas apartment. Willis was romantically involved with Angela Matthews, the mother of the victim and two other children—A.S. and A.M. Matthews testified that she was in her bedroom and the victim was in the kitchen when Matthews heard the sound of a kitchen chair being dragged across the floor, a scream, and a

thud. Matthews ran out of her bedroom to the balcony and saw A.S. hitting Willis, yelling at him, and asking Willis why he had thrown the victim off the balcony. Matthews looked down and saw the victim outside on the ground, not moving. A.S. stated, during a recorded forensic interview that was admitted into evidence at trial, that he and the victim had been sitting in the kitchen when Willis grabbed the victim by her hair, dragged her outside to the balcony, and threw her over. A neighbor testified that he saw Willis "toss" the victim over the balcony, and medical evidence established that the victim suffered grievous injuries, including a broken arm, fractured pelvis, collapsed lung, and lacerated liver. We conclude that this evidence was sufficient for any rational trier of fact to find the essential elements of the crimes beyond a reasonable doubt. *See* NRS 0.060 (defining substantial bodily harm); NRS 193.153(1) (defining attempted offenses); NRS 200.010 (defining murder); NRS 200.310 (defining kidnapping); NRS 200.508(1) (defining child abuse, neglect, or endangerment).

Next, Willis argues that the district court abused its discretion by admitting police-body-camera footage (Exhibit 91). *See Harkins v. State*, 122 Nev. 974, 980, 143 P.3d 706, 709 (2006) (stating that this court reviews a district court's decision to admit or exclude evidence for an abuse of discretion). Specifically, Willis asserts that the footage contained inadmissible hearsay statements made by A.S. that violated Willis's right to confrontation because A.S. did not testify at trial. We disagree because Willis stipulated to the admission of Exhibit 91 and thus affirmatively waived the issue. *See United States v. Olano*, 507 U.S. 725, 733 (1993) (explaining that waiver is the "intentional relinquishment or abandonment of a known right"); *see also Ford v. State*, 122 Nev. 796, 805, 138 P.3d 500, 506 (2006) (holding that defendant waived his confrontation right by

stipulating through counsel to substitution of another doctor for doctor who performed autopsy). When discussing the introduction of Exhibit 91, Willis equivocated about whether he had an objection. The district court asked Willis to clarify, and Willis stated that he did not have an objection. Moreover, the district court directly asked Willis if Exhibit 91 was being admitted by stipulation, and Willis answered in the affirmative. Thus, Willis's argument that he objected to Exhibit 91 during an unrecorded bench conference is inconsequential as he later stipulated to the admission of the evidence.[1] *See Ford*, 122 Nev. at 805, 138 P.3d at 506 (declining to consider a waived issue on appeal). Furthermore, even assuming the district court erred in admitting Exhibit 91, any error was harmless given the overwhelming evidence of guilt. *See Shults v. State*, 96 Nev. 742, 616 P.2d 388 (1980) (concluding that the erroneous admission of hearsay evidence was harmless given the overwhelming evidence of guilt); *Davies v. State*, 95 Nev. 553, 558, 598 P.2d 636, 640 (1979) (explaining that a violation of the right to confrontation does not require reversal "where the independent evidence of guilt is truly overwhelming and the improperly admitted evidence cumulative"). Thus, Willis has not shown that relief is warranted on this ground.

Finally, Willis argues that cumulative error warrants a new trial. *See Valdez v. State*, 124 Nev. 1172, 1195, 196 P.3d 465, 481 (2008)

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[1]To the extent Willis asserts that the district court erred in not memorializing the unrecorded bench conference, he has not demonstrated that any missing portion of the record is necessary for appellate review. *See Daniel v. State*, 119 Nev. 498, 508, 510, 78 P.3d 895, 897, 898 (2003) (explaining that an appellant must show (1) a missing portion of the record and (2) that the subject matter missing from the record is so significant that the appellate court cannot meaningfully review appellant's contention for errors).

(listing the relevant factors to consider for a cumulative-error claim). Even assuming that Exhibit 91 was erroneously admitted, we discern no other errors to cumulate. *See Lipsitz v. State*, 135 Nev. 131, 139 n.2, 442 P.3d 138, 145 n.2 (2019) (concluding that there were no errors to cumulate when the court found only a single error). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Stiglich, J.
Stiglich

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

cc: Hon. Ronald J. Israel, District Judge
The Matian Firm, APC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk