

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION	
	)	(Not For Official Publication)	
Plaintiff and Appellee,	)		
	)	Case No. 20070075-CA	
v.	)		
	)	F I L E D	
Herbert Landry,	)	(December 18, 2008)	
	)		
Defendant and Appellant.	)	<table border="1"><tr><td>2008 UT App 461</td></tr></table>	2008 UT App 461
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Fourth District, Provo Department, 061400878  
The Honorable Steven L. Hansen

Attorneys: Jennifer K. Gowans, Provo, for Appellant  
Mark L. Shurtleff and Kenneth A. Bronston, Salt Lake  
City, for Appellee

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Before Judges Thorne, Davis, and Orme.

ORME, Judge:

Defendant appeals the trial court's denial of his motion for a directed verdict and his subsequent jury conviction for aggravated arson. See Utah Code Ann. § 76-6-103(1) (2003). He argues that there was insufficient evidence to convict him of the crime charged. We disagree and affirm.

When an appellant challenges the sufficiency of the evidence, "we review the evidence and all inferences which may reasonably be drawn from it in the light most favorable to the verdict of the jury." State v. Shumway, 2002 UT 124, ¶ 15, 63 P.3d 94. "We will reverse a jury conviction for insufficient evidence only when the evidence is sufficiently inconclusive or inherently improbable that reasonable minds must have entertained a reasonable doubt that the defendant committed the crime of which he was convicted." Id. "So long as there is some evidence, including reasonable inferences, from which findings of all the requisite elements of the crime can reasonably be made, our inquiry stops." State v. Boss, 2005 UT App 520, ¶ 9, 127 P.3d 1236 (citation and internal quotation marks omitted).

Defendant has not demonstrated the requisite evidentiary insufficiency. In viewing the evidence in a light most favorable to the jury's verdict, we do not think that the evidence was

"sufficiently inconclusive or inherently improbable such that reasonable minds must have entertained a reasonable doubt that the defendant committed the crime for which he . . . was convicted." State v. Dunn, 850 P.2d 1201, 1212 (Utah 1993).<sup>1</sup> On the contrary, the jury could reasonably have been convinced of Defendant's guilt from the State's expert testimony that the fire was not of accidental origin; testimony that the Defendant was seen hurriedly leaving the apartment complex minutes before the fire was noticed; Defendant's incredible testimony at trial; and the fact that Defendant, who was no longer welcome as a tenant, had agreed to move out by 9:00 p.m. on the same day the fire occurred.<sup>2</sup> Given the implausibility of Defendant's explanations, the jury was well within its rights to draw the inferences it did. Consequently, viewing the evidence in a light most favorable to the verdict, we affirm Defendant's conviction because the evidence is not "completely lacking or . . . so slight and unconvincing as to make the verdict plainly unreasonable and unjust." State v. Heaps, 2000 UT 5, ¶ 19, 999 P.2d 565 (citation and internal quotation marks omitted).

Affirmed.

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Gregory K. Orme, Judge

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WE CONCUR:

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William A. Thorne Jr.,  
Associate Presiding Judge

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James Z. Davis, Judge

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<sup>1</sup>Defendant points out that at one point the jury was deadlocked. As clarified at oral argument, he raises this point to demonstrate that the jury struggled with the sufficiency of the evidence rather than as a separate argument addressing the trial court's handling of the temporary deadlock.

<sup>2</sup>In addition, an inference that Defendant removed most of his belongings from his apartment prior to the fire could easily be drawn from the evidence, although he claimed otherwise.