

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARMANDO GARCIA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71644

FILED

AUG 16 2017

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

ORDER OF AFFIRMANCE

Armando Garcia appeals from a judgment of conviction, pursuant to a jury verdict, of four counts of possession of a credit or debit card without cardholder's consent and one count each of conspiracy to commit robbery, conspiracy to commit kidnapping, first-degree kidnapping with use of a deadly weapon, robbery with use of a deadly weapon, assault with use of a deadly weapon, battery with intent to commit a crime, battery with use of a deadly weapon, and discharge of a weapon where a person might be endangered. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Garcia contends the prosecutor engaged in misconduct by asking a detective whether he could tell when someone was being truthful with him. We review claims of prosecutorial misconduct for improper conduct and then determine whether reversal is warranted. *Valdez v. State*, 124 Nev. 1172, 1188, 196 P.3d 465, 476 (2008). Because Garcia preserved this issue, we review for harmless error. *See id.* Although the questioning was improper, we conclude the error was harmless and did not substantially affect the jury's verdict because overwhelming evidence supports the verdict, the detective's answer was stricken, and the jury was


instructed to disregard it. *See id; see also Hyman v. State*, 121 Nev. 200, 211, 111 P.3d 1092, 1100 (2005) (presuming the jury follows instructions). Further, the question did not infect the proceedings so as to impair Garcia's due process right to a fair trial. *See Valdez*, at 1192, 196 P.3d at 478-79. We therefore deny this claim.

To the extent Garcia challenges the sufficiency of the evidence, he has not presented any relevant authority and cogent argument in support of this contention, and we do not consider it. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987).

For the foregoing reasons, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Carolyn Ellsworth, District Judge
Law Offices of John P. Parris
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk