

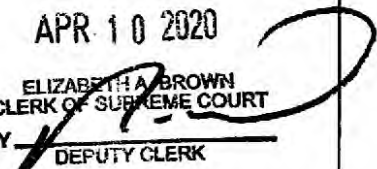
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDWARD MARTINEZ, A/K/A MIKE
FLORES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76964-COA

FILED

APR 10 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Edward Martinez appeals from a judgment of conviction entered pursuant to a jury verdict of conspiracy to commit home invasion, invasion of the home, conspiracy to commit burglary, and burglary. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

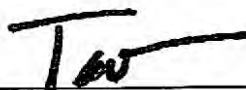
Martinez argues the district court committed plain error by failing to admonish the jury pursuant to NRS 175.401 prior to one recess. Martinez did not object when the district court failed to admonish the jury pursuant to NRS 175.401, and thus, he is not entitled to relief absent a demonstration of plain error. *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48-49 (2018), *cert. denied*, 139 S. Ct. 415 (Oct. 29, 2018). To demonstrate plain error, an appellant must show there was an error, the error was plain or clear, and the error affected appellant's substantial rights. *Id.* at 50, 412 P.3d at 48.

The district court erred by failing to admonish the jury prior to the recess. *See Blake v. State*, 121 Nev. 779, 798, 121 P.3d 567, 579 (2005). However, "[r]eversal is not always necessary when a district court fails to comply with the mandatory language of a statute." *Bollinger v. State*, 111 Nev. 1110, 1114, 901 P.2d 671, 674 (1995) (reviewing a district court's

failure to admonish the jury pursuant to NRS 175.401 for plain error). Martinez does not demonstrate that he suffered prejudice stemming from a failure to admonish the jury prior to one recess. Moreover, the record demonstrates significant evidence of Martinez' guilt was presented at trial, as he and another individual were detained by an officer near the victim's residence while they were in possession of the victim's belongings. Martinez' left palm print was also discovered on a broken window at the victim's residence. Given the record, Martinez failed to demonstrate error affecting his substantial rights. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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