

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ORLANDO JOSEPH DELGADO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77474-COA

FILED

OCT 16 2020

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

ORDER OF AFFIRMANCE

Orlando Joseph Delgado appeals from a judgment of conviction, pursuant to a jury verdict, of two counts of aggravated stalking. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

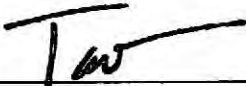
Delgado contends the State committed prosecutorial misconduct in rebuttal by telling the jurors to do their jobs. Delgado failed to object below and is thus not entitled to relief absent a demonstration of plain error. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018). To demonstrate plain error, he must show “(1) there was error; (2) the error is plain, meaning that it is clear under the current law from a casual inspection of the record; and (3) the error affected [his] substantial rights.” *Id.* (internal quotation marks omitted).

During the prosecutor’s rebuttal argument, he stated to the jurors, “[A]t this point, your job is very simple. It’s to follow your oath that you took when you first came here.” The prosecutor ended his rebuttal argument by stating, “Do your jobs.” Even assuming this is error that is plain from a casual inspection of the record, *see Evans v. State*, 117 Nev. 609, 633, 28 P.3d 498, 515 (2001) (“[E]xhort[ing] the jury to ‘do its job’ . . . has no place in the administration of criminal justice.” (quotation marks

omitted)), *overruled on other grounds by Lisle v. State*, 131 Nev. 356, 366 n.5, 351 P.3d 725, 732 n.5 (2015), Delgado has not demonstrated the error affected his substantial rights due to the overwhelming evidence presented by the State. Therefore, Delgado has not demonstrated plain error. 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