

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN DEMOND BURKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82210-COA

FILED

OCT 21 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Steven Demond Burks appeals from a judgment of conviction, pursuant to a jury verdict, of five counts of attempt murder with use of a deadly weapon, four counts of battery with use of a deadly weapon resulting in substantial bodily harm, one count of assault with a deadly weapon, and six counts of discharge of a firearm from or within a structure or vehicle. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

On appeal, Burks argues that (1) the State committed prosecutorial misconduct during the cross-examination of Burks' codefendant by alluding to the fact that Burks would not testify; and (2) during closing argument, Burks' codefendant's counsel improperly referred to Burks' invocation of his Fifth Amendment right to remain silent. Nonetheless, he waived his challenges because he did not assert them during the proceedings below. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018) ("The failure to preserve an error . . . forfeits the right to assert it on appeal.").

Furthermore, even if the waiver rule does not operate as an absolute bar to Burks' claims, those claims would still fail because he does not attempt to satisfy the plain-error standard of review on appeal. *See Miller v. State*, 121 Nev. 92, 99, 110 P.3d 53, 58 (2005) (noting that an appellant bears the burden of demonstrating that he was prejudiced by the

plain error); *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (contentions not supported by relevant authority and cogent argument “need not be addressed by this court”). Therefore, we conclude that Burks cannot demonstrate reversible plain error. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 21
Matsuda & Associates, Ltd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk