

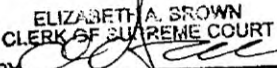
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JESUS MANUEL BERNAL MONTES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83779-COA

FILED

SEP 09 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jesus Manuel Bernal Montes appeals from a judgment of conviction entered pursuant to a jury verdict of trafficking in a schedule 1 controlled substance and conspiracy to violate the Uniform Controlled Substances Act. Fourth Judicial District Court, Elko County; Mason E. Simons, Judge.

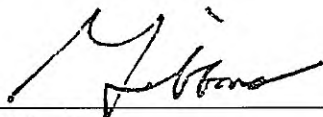
Montes argues the State committed prosecutorial misconduct by offering a plea deal to his codefendant in exchange for her testimony against Montes. Montes contends his codefendant's plea deal resulted in a large disparity in sentences between Montes and his codefendant.

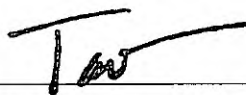
The State asserts that Montes did not contend to the district court that the State committed misconduct, and Montes does not dispute this assertion. Thus, Montes is not entitled to relief absent a demonstration of plain error. *See Rose v. State*, 123 Nev. 194, 208-09, 163 P.3d 408, 418 (2007). To demonstrate plain error, Montes must show "(1) there was an error; (2) the error is plain, meaning that it is clear under current law from a casual inspection of the record; and (3) the error affected [his] substantial rights." *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018) (internal quotation marks omitted).

“The general rule is that an accomplice who has pled guilty may testify against non-pleading defendants without raising due process concerns.” *Morris v. Woodford*, 273 F.3d 826, 836 (9th Cir. 2001) (quotation marks omitted). “In addition, a plea agreement may require an accomplice to testify fully and truthfully without violating the Due Process Clause.” *Id.* Moreover, “sentencing is an individualized process; therefore, no rule of law requires a court to sentence codefendants to identical terms.” *Nobles v. Warden*, 106 Nev. 67, 68, 787 P.2d 390, 391 (1990).

Montes does not demonstrate that the State committed misconduct by reaching a plea agreement with his codefendant that required her to testify at Montes’ trial. Montes also does not demonstrate it was improper for him to receive a lengthier sentence than his codefendant. Thus, Montes fails to demonstrate error that is plain from a casual inspection of the record. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Mason E. Simons, District Judge
Hillewaert Law Firm
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk