

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ERIC SCOTT BURDETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85079-COA

FILED

JAN 13 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY:  DEPUTY CLERK

ORDER OF AFFIRMANCE

Eric Scott Burdett appeals from a judgment of conviction, entered pursuant to a guilty plea, of two counts of attempted burglary of a motor vehicle. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Burdett argues the State breached the guilty plea agreement by implicitly arguing for a harsher sentence than that contemplated in the agreement. Burdett did not object to the State's comments at the sentencing hearing below, and he does not argue on appeal that it was plain error. We thus conclude he has forfeited this claim, and we decline to review it on appeal. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018); *Sullivan v. State*, 115 Nev. 383, 387 & n.3, 990 P.2d 1258, 1260 & n.3 (1999) (noting that plain-error review applies to an unpreserved claim that the State breached the plea agreement); *see also Miller v. State*, 121 Nev. 92, 99, 110 P.3d 53, 58 (2005) (stating it is the appellant's burden to

demonstrate plain error). Accordingly, we decline to consider Burdett's claim on appeal in the first instance, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Robert W. Lane, District Judge
Jason Earnest Law, LLC
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk