

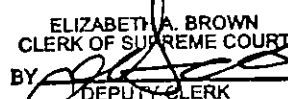
IN THE SUPREME COURT OF THE STATE OF NEVADA

KAMI LOUISE OBRIEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88419

FILED

JUN 17 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of assault with the use of a deadly weapon constituting domestic violence and child abuse, neglect or endangerment. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant Kami Obrien raises two issues. First, Obrien argues that there was insufficient evidence to support either conviction. Obrien asserts that the State failed to produce sufficient evidence of assault with the use of a deadly weapon constituting domestic violence because she acted in self-defense when she pointed the firearm at her ex-husband, Patrick. Additionally, Obrien urges that there is no support for the child abuse, neglect or endangerment conviction because she pointed the firearm only in the direction of the child and not directly at the child and did so in self-defense. In reviewing the sufficiency of the evidence, we consider “whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)).

At trial, Patrick testified that both Obrien and their 11-year-old child called him in the middle of the night and asked him to bring some rice to Obrien's house to assist the child with her phone, which the child had dropped in water. The child opened the door for Patrick when he arrived and stepped out on the front porch with Patrick. Patrick heard yelling from inside the house and looked up to see Obrien pointing a gun at him and yelling, "What are you doing here at 1:00 o'clock in the morning, bitch? I'm going to shoot you." Obrien lowered the gun to her side but followed Patrick outside to the driveway. As Patrick backed away toward his car, Obrien continued to threaten to shoot him. Video footage from a doorbell camera and from Patrick's cell phone showed Obrien pointing the firearm directly at Patrick and toward the doorway. It showed the child gasping and moving into the shadows beside the doorway just before Patrick saw Obrien. It further showed Obrien moving toward the retreating Patrick while threatening to shoot him, even after acknowledging him by name.

Obrien testified that she was unaware Patrick was coming over to the house and, upon noticing the front door of the residence was open, Obrien believed someone had broken in and she retrieved the firearm. But Obrien admitted she recognized Patrick at the door. And the child told an officer that Obrien knew the child answered the door that night, although the child testified differently at trial.

Despite the conflicting testimony, we conclude that the State presented sufficient evidence for a rational juror to conclude beyond a reasonable doubt that Obrien intentionally placed Patrick in reasonable apprehension of immediate bodily harm and was not acting in self-defense. *See* NRS 33.018(1)(b) (providing that an assault against a coparent constitutes domestic violence); NRS 200.471(1)(a) (defining assault); *see*

also *Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981) (observing that the jury determines what weight to give conflicting evidence and upholding a verdict supported by substantial evidence). Likewise, the State presented sufficient evidence for a rational juror to find the essential elements to support the conviction for child abuse, neglect or endangerment. See NRS 200.508(1) (defining child abuse, neglect or endangerment). Though Obrien contends that there was no expert testimony that her actions harmed the child, a rational juror could conclude without the assistance of an expert that Obrien's conduct caused harm to the child or placed the child in a situation where she may have suffered harm. See *id.*; *Meyer v. State*, 119 Nev. 554, 568, 80 P.3d 447, 458 (2003) (“[J]urors may rely on their common sense and experience.”).

Next, Obrien argues that the statutory scheme does not allow for a conviction of assault with a deadly weapon constituting domestic violence. Because Obrien concedes that she did not object below, we review for plain error. See *Martinorellan v. State*, 131 Nev. 43, 48, 343 P.3d 590, 593 (2015) (“We ordinarily review an error that was not preserved in the district court for plain error.”).

The State charged Obrien with assault with the use of a deadly weapon constituting domestic violence under NRS 200.471 and NRS 33.018. “Domestic violence occurs when a person commits” an enumerated act against a “person with whom the person has a child in common,” NRS 33.018(1), which includes assault, see NRS 33.018(1)(b) (including “[a]n assault” as an act of domestic violence); see also *McDermott v. McDermott*, 113 Nev. 1134, 1136, 946 P.2d 177, 178 (1997) (“NRS 33.018 provides that an act of domestic violence occurs when one person commits battery or assault upon another with whom he or she has a child in common.”).

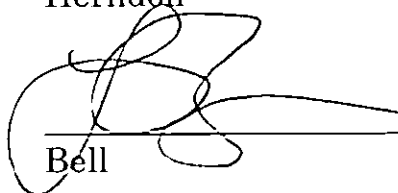
(emphasis added) (internal quotation marks omitted)). The statutes do not clearly preclude a charge of assault constituting domestic violence. See *Martinoirellan*, 131 Nev. at 49, 343 P.3d at 593 ("To amount to plain error, the error must be so unmistakable that it is apparent from a casual inspection of the record." (internal quotation marks omitted)). Further, Obrien failed to show that any error affected her substantial rights "by causing actual prejudice or a miscarriage of justice." *Valdez v. State*, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008). Given the plain text of the relevant statutes and no showing of prejudice affecting Obrien's substantial rights, we conclude that Obrien has not demonstrated plain error. Accordingly, we

ORDER the judgment of conviction AFFIRMED.



Herndon

C.J.



Bell

J.



Stiglich

J.

cc: Hon. Michelle Leavitt, District Judge
Steven S. Owens
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk