

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUAN CARLOS ARELLANO-
GUERRERO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89212-COA

FILED

JUN 30 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Juan Carlos Arellano-Guerrero appeals from a judgment of conviction, entered pursuant to a jury verdict, of robbery with the use of a deadly weapon and battery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Arellano-Guerrero's sole contention on appeal is that the district court erred in addressing the State's motion in limine to admit other act evidence. Arellano-Guerrero's convictions are the result of a July 13 incident wherein Arellano-Guerrero struggled with security while shoplifting from a department store. The State sought to introduce evidence of Arellano-Guerrero's July 9 visit to the same store, wherein he was observed by security and his companion was detained for suspected shoplifting. The district court deferred consideration of the evidence's admissibility until the defense made identity an issue. Arellano-Guerrero contends the district court abused its discretion in concluding that the evidence would be admitted if Arellano-Guerrero challenged eyewitnesses as to their ability to identify him.

Although Arellano-Guerrero opposed the motion in limine, he did not object to the district court's deferral of a decision on the motion until

identity became an issue but instead acknowledged that deferring the decision was reasonable. Therefore, we review for plain error. *See Merica v. State*, 87 Nev. 457, 462, 488 P.2d 1161, 1163-64 (1971) (despite the defendant's objection in the lower court, the defendant's failure to specifically object on the grounds urged on appeal precluded appellate consideration on the grounds not raised in the lower court); *see also Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366-67, 212 P.3d 1068, 1080 (2009) (finding that the party's motion did not preserve error regarding court's deferral of a ruling on that motion; given party's complacency in the deferral, a separate objection was required to preserve deferral error). To demonstrate plain error, an appellant must show that: "(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 the defendant's substantial rights." *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018).

We discern no plain error. The district court did not grant the State's motion in limine, nor was the other act evidence admitted during trial. Arellano-Guerrero's framing of the issue misstates the district court's decision. The district court did not rule that it would admit the evidence; it ruled that, if Arellano-Guerrero challenged the identifications of him, the State could request an evidentiary hearing and only then would the court rule on the evidence's admissibility. This did not constitute a grant of the State's motion. *Cf. Scior, Inc. v. Sacks*, 127 Nev. 896, 903, 266 P.3d 618, 622 (2011) ("[W]e decline to equate the district court's deferral of its final decision on appellant's motion to change venue with a denial of that motion."). Further, Arellano-Guerrero did not demonstrate his substantial rights were violated. Arellano-Guerrero was identified as the perpetrator

by several eyewitnesses. They specifically described his prominent face tattoos. Additionally, the jury viewed surveillance footage of the perpetrator. Arellano-Guerrero did not demonstrate that, given these facts, any examination of the eyewitnesses of their confidence in the identification would have altered the outcome of trial. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk