

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUSAN RAHMAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49443

**FILED**

MAY 20 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count each of attempted murder with the use of a deadly weapon, extortion, discharging a firearm out of a motor vehicle, and discharging a firearm at or into a structure. Eighth Judicial District Court, Clark County; David B. Barker, Judge. The district court sentenced appellant Lusan Rahman to serve a prison term of 48 to 120 months for the attempted murder count, with an equal and consecutive term for the deadly weapon enhancement; a concurrent term of 24 to 60 months for the extortion count; a concurrent term of 24 to 60 months for the discharging a firearm out of a motor vehicle count; and a concurrent term of 24 to 60 months for the discharging a firearm at or into a structure count.

Rahman first contends that the evidence presented at trial was insufficient to support the jury's finding of guilt of attempted murder. Specifically, Rahman contends that the only evidence presented that he possessed the specific intent to kill was testimony improperly elicited by the State and admitted by the district court. Specifically, on direct examination, a detective commented that he believed Rahman was

“minimizing” his actual intent when he stated that he was merely trying to “scare” his ex-employers by shooting into the office building.

Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact.<sup>1</sup> In particular, we note that the victim testified that he was sitting in his office during work hours when Rahman shot six times into the building. One bullet hit his computer. Rahman testified, admitting that he shot into the building during office hours when he knew employees were present.

The jury could reasonably infer from the testimony presented that Rahman attempted to murder the victim.<sup>2</sup> It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict.<sup>3</sup>

Further, to the extent that Rahman claims the district court erred in admitting testimony that Rahman was “minimizing” his intent, we note Rahman did not object to the admission of this testimony. Failure to raise an objection in the district court generally precludes appellate consideration of an issue absent plain error affecting substantial rights.<sup>4</sup>

---

<sup>1</sup>See Wilkins v. State, 96 Nev. 367, 609 P.2d 309 (1980); see also Origel-Candido v. State, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998).

<sup>2</sup>NRS 200.030; NRS 193.330(1)(a)(1).

<sup>3</sup>See Bolden v. State, 97 Nev. 71, 624 P.2d 20 (1981); see also McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

<sup>4</sup>See Gallego v. State, 117 Nev. 348, 365, 23 P.3d 227, 239 (2001); NRS 178.602.

Generally, an appellant must show that he was prejudiced by a particular error in order to prove that it affected his substantial rights.<sup>5</sup> Given the evidence presented at trial, we conclude that Rahman failed to demonstrate that the admission of the detective's testimony affected his substantial rights.

Next, Rahman contends that the prosecutor committed prejudicial misconduct. Specifically, Rahman contends that the prosecutor did not produce a tape-recorded telephone conversation of Rahman threatening an ex-employer until near the end of the trial. Rahman argues that the audiotape was a crucial part of the attempted murder case, and yet his attorney was denied access until it was too late to evaluate the tape and plan a defense strategy. Rahman failed to object to this in the proceedings below. Failure to raise an objection in the district court generally precludes appellate consideration of an issue absent plain error affecting substantial rights.<sup>6</sup> Generally, an appellant must show that he was prejudiced by a particular error in order to prove that it affected his substantial rights.<sup>7</sup> Rahman did not provide an adequate factual record or sufficient cogent argument to demonstrate error that is plain on the record.

Last, Rahman contends that the district court erred by improperly considering newly discovered evidence at sentencing. Specifically, the State submitted a sentencing memorandum in which it

---

<sup>5</sup>Gallego, 117 Nev. at 365, 23 P.3d at 239.

<sup>6</sup>Id.

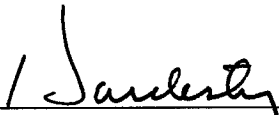
<sup>7</sup>Id.

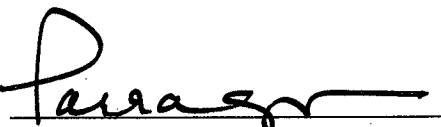
discussed a comparison of ballistic tests from this crime to the ballistics test of a previous shooting at another of Rahman's past employers' buildings. The burden is on the appellant to provide this court with an adequate record enabling this court to review assignments of error.<sup>8</sup>


Here, Rahman has failed to provide this court with a transcript of the sentencing hearing so that this court can effectively review his claim. Accordingly, we conclude that Rahman has failed to demonstrate that the district court erred at sentencing.

Having considered Rahman's contentions and determined that they are without merit, we

ORDER the judgment of conviction AFFIRMED.<sup>9</sup>

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

---

<sup>8</sup>Greene v. State, 96 Nev. 555, 612 P.2d 686 (1980); Lee v. Steriff, 85 Nev. 379, 455 P.2d 623 (1969).

<sup>9</sup>Because Rahman is represented by counsel in this matter, we decline to grant him permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, this court shall take no action and shall not consider the proper person documents Rahman has submitted to this court in this matter.

cc: Hon. David B. Barker, District Judge  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Allen Lichtenstein  
Eighth District Court Clerk  
Lusan Rahman