

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS JAMES GUERRERO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52750

FILED

JUL 07 2009

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 conspiracy to commit robbery (count I), burglary while in the possession of a firearm (count II), robbery with the use of a deadly weapon (count III), and impersonation of an officer (count IV). Eighth Judicial District Court, Clark County; Valorie Vega, Judge. The district court sentenced appellant Thomas James Guerrero to serve a prison term of 12-48 months for count I, a prison term of 26-120 months for count II, consecutive prison terms of 26-120 months and 12-120 months for count III, and 12 months in jail for count IV; all of the terms were ordered to run concurrently.

Guerrero contends that the State improperly called Andrew Camblin to testify in its case-in-chief. Specifically, Guerrero claims that the State either knew or should have known that Camblin would offer perjured testimony. Guerrero notes that "Camblin's cross-examination testimony was plainly shown to be conjured so as to bolster the State's direct evidence against the Defendants." Nevertheless, in the fast track statement, counsel for Guerrero informs this court that "[w]hile the issue was preserved at trial by way of cross-examination, this portion of the

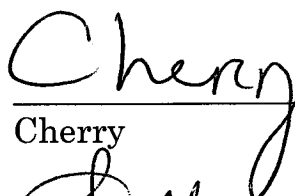
record is incomplete to the extent that Mr. Camblin's cross-examination testimony is not made part of the appendix for the reason that it was not specifically requested at the time of the production of the transcript." Counsel asked this court to consider a request to "enlarge the index to include said cross-examination testimony as part of the formal appeal." We elected to construe this statement as a motion for leave to supplement the record on appeal. We also reminded counsel that, in the future, requests for relief should be presented in a formal motion filed with this court. See In re Petition to Recall Dunleavy, 104 Nev. 784, 787, 769 P.2d 1271, 1273 (1988).

Cause appearing, on May 15, 2009, this court entered an order granting the motion and giving Guerrero 30 days from the date of the order to file a supplemental appendix containing the necessary transcripts. We reminded counsel that "[t]he burden to make a proper appellate record rests on appellant," Greene v. State, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980), and noted that the failure to timely submit a supplemental appendix would result in the court reaching its decision based on the documents presently before it.

Guerrero has failed to respond to this court's order and submit a supplemental appendix with the necessary transcripts. Therefore, we are unable to meaningfully review Guerrero's assignment of error on appeal. See Thomas v. State, 120 Nev. 37, 43 & n.4, 83 P.3d 818, 822 & n.4 (2004) ("Appellant has the ultimate responsibility to provide this court with 'portions of the record essential to determination of issues raised in appellant's appeal.'") (quoting NRAP 30(b)(3)); Phillips v. State, 105 Nev. 631, 634, 782 P.2d 381, 383 (1989) (recognizing that appellant's failure to include in record on appeal evidence from trial court record relevant to

issue raised constitutes a failure to preserve issue for appeal); Greene, 96 Nev. at 558, 612 P.2d at 688 (1980).¹ We further note that Guerrero has not provided any cogent argument in support of his allegation. See Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (“It is appellant’s responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.”). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 _____, J.

Cherry

 _____, J.

Saitta

 _____, J.

Gibbons

¹Although this court has elected to file the appendix submitted by Guerrero, we note that it fails to comply with the requirements of the Nevada Rules of Appellate Procedure. See NRAP 3C(e); NRAP 30(b)(2) (requiring inclusion in appellant’s appendix of matters essential to the decision of issues presented on appeal). Specifically, the appendix submitted by Guerrero contains only selected portions of the 5-day trial transcript. Counsel for Guerrero is cautioned that failure to comply with the requirements for appendices in the future may result in it being returned, unfiled, to be correctly prepared, and may also result in the imposition of sanctions by this court. NRAP 3C(n).

cc: Hon. Valorie Vega, District Judge
Joseph P. Reiff
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk