

IN THE SUPREME COURT OF THE STATE OF NEVADA


JOSHUA BRADLEY ELDER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55111

FILED

SEP 09 2010

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of statutory sexual seduction. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

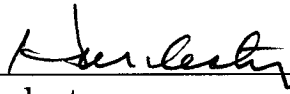
First, appellant Joshua Bradley Elder contends that we should overrule Jenkins v. State, 110 Nev. 865, 877 P.2d 1063 (1994), and find that a reasonable mistake regarding the age of a victim is a defense to the crime of statutory sexual seduction. Elder has offered no persuasive authority in support of his argument and we therefore decline his invitation to revisit the issue.

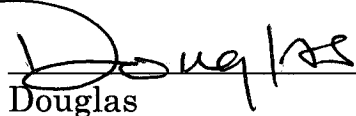
Second, Elder contends that the prosecutor committed misconduct during closing arguments by referring to his failure to testify at trial. Elder concedes that he did not object to the challenged statement and we conclude that he has failed to satisfy his burden and demonstrate that he was prejudiced in any way amounting to reversible plain error. See NRS 178.602; Valdez v. State, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008); see also Knight v. State, 116 Nev. 140, 144-45, 993 P.2d 67, 71 (2000) (“A prosecutor’s comments should be viewed in context, and ‘a criminal conviction is not to be lightly overturned on the basis of a


prosecutor's comments standing alone." (quoting United States v. Young, 470 U.S. 1, 11 (1985))).

Having considered Elder's contentions and concluded that he is not entitled to relief, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

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