IN THE SUPREME COURT OF THE STATE OF NEVADA

RAMONT L. WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57627

FILED

JUN 14 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY D. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal under NRAP 4(c) from a judgment of conviction, pursuant to a jury verdict, of battery with the use of a deadly weapon resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Michael Villani, Judge. Appellant Ramont L. Williams raises three issues on appeal.

First, Williams argues that the district court abused its discretion when it excluded evidence of a police interview with a witness who was not available to testify at trial. Crowley v. State, 120 Nev. 30, 34, 83 P.3d 282, 286 (2004) (reviewing district court's decision on evidentiary issues for an abuse of discretion). Williams contends that the evidence was admissible under NRS 51.315. We disagree. NRS 51.315 allows a court to admit evidence from an unavailable witness if the circumstances surrounding the evidence offer a strong assurance of accuracy. Here, Williams sought to introduce a statement Yolanda Millin gave to a police detective. Millin was Williams' employee and possible girlfriend. She

spoke to the police detective over two weeks after the incident. The State explained a plausible motive for her to lie, and her statement was complicated—explaining the entire crime and that Williams was being blackmailed by the victim. We conclude that Millin's statements lacked a "strong indicia of accuracy," Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (identifying circumstances that may provide "strong indicia of accuracy"), and therefore, the district court did not abuse its discretion by excluding the statement.

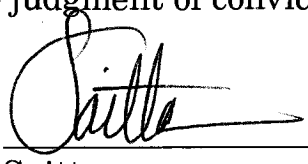
Second, Williams argues that the State used its peremptory challenges in a racially biased manner in violation of Batson v. Kentucky, 476 U.S. 79 (1986). See Diomampo v. State, 124 Nev. 414, 422, 185 P.3d 1031, 1036 (2008) (explaining the three-pronged test for determining whether illegal discrimination has occurred). Williams has not preserved his claim of error as there is nothing in the record that indicates he objected to any of the State's peremptory challenges. McCullough v. State, 99 Nev. 72, 74, 657 P.2d 1157, 1158 (1983) (stating that generally failure to object at trial bars appellate review of the issue). Williams asserts that the district court heard argument on the Batson issue, but he has failed to include those portions of the record in the appendix, and there is no indication that there was an off-the-record bench conference concerning the State's use of its peremptory challenges. Because Williams failed to substantiate his claim, we conclude that no relief is warranted. See, e.g.,

Greene v. State, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980) (providing that the appellant has the burden of making a proper appellate record).

Third, Williams argues that jury instruction 26—a self-defense instruction—was confusing and misleading under the circumstances in his case. Williams' argument at trial was that he punched the victim and he fell into a pole. Williams has again failed to include enough of the record for this court to address whether the district court erred. NRAP 30(b)(3) (requiring the appellant's appendix to contain the portions of the record essential to determining the issues raised in appeal); Nolan v. State, 122 Nev. 363, 376, 132 P.3d 564, 572 (2006). He includes only three jury instructions and his own testimony from the trial. The appendix gives no indication that he sought to have the jury instructed differently or what other witnesses testified to. Williams concedes that the jury instruction by itself was proper. Under the circumstances presented, we can discern no plain error in the district court's actions. See Berry v. State, 125 Nev. 265, 282-83, 212 P.3d 1085, 1097 (2009) (reviewing adequacy of jury instruction in the absence of an objection for plain error), overruled on other grounds by State v. Castaneda, 126 Nev. ___, 245 P.3d 550 (2010); Valdez v. State, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008) (defining plain error).

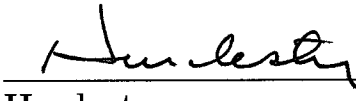
Having considered Williams arguments and concluded that no relief is warranted, we

ORDER the judgment of conviction AFFIRMED.[1]



_____, J.
Saitta

_____, J.
Pickering



_____, J.
Hardesty

cc: Hon. Michael Villani, District Judge
Carl E. G. Arnold
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk
Ramont L. Williams

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[1]Williams has submitted a proper person document requesting that this court order counsel to withdraw in the district court. According to the minutes, the district court granted Williams' motion for withdrawal of counsel on March 20, 2012. However, the district court is without authority to discharge counsel on appeal, see NRAP 46(d), and therefore, the district court's order has no effect. Williams has not sought or been granted leave to file documents in this matter in proper person, NRAP 46(b), and he has no right to represent himself in this direct appeal, see Martinez v. Court of Appeal of California, 538 U.S. 152 (2000); Blandino v. State, 112 Nev. 352, 914 P.2d 624 (1996). The clerk of this court shall return, unfiled the proper person document received on May 18, 2012.