IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCISCO JAVIER RESENDIZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57755

FILED

JUL 14 2011

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 guilty plea, of leaving the scene of an accident. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

Appellant Francisco Javier Resendiz's sole contention on appeal is that his sentence was prejudiced by the admission of testimony from the "common law wife" of the victim. Resendiz argues that the witness's testimony should not have been admitted because Nevada does not recognize common law spouses, see NRS 122.010, and therefore, she was not a relative under NRS 176.015(5)(b). Resendiz admits that a sentencing court is not restricted from considering "any reliable and relevant evidence at the time of sentencing" under NRS 176.015(6) but argues that the testimony of the victim's "common law wife" was more prejudicial than probative.

Because Resendiz failed to object below, we review for plain error. Dieudonne v. State, 127 Nev. __, __, 245 P.3d 1202, 1208 (Nev. 2011). "To be plain, an error must be so unmistakable that it is apparent from a casual inspection of the record." Nelson v. State, 123 Nev. 534, 543, 170 P.3d 517, 524 (2007) (internal quotation marks omitted). Here, Resendiz has failed to provide this court with a transcript of the witness's

testimony to review. See Jacobs v. State, 91 Nev. 155, 158, 532 P.2d 1034, 1036 (1975) (explaining that it is appellant's responsibility to provide the necessary materials). However, even if we base our determination solely on Resendiz's representation of the witness's testimony at sentencing, we find no error. Resendiz has failed to demonstrate that the witness's testimony was either unreliable or irrelevant to the district court's sentencing determination and therefore, it was admissible under NRS 176.015(6).

Having considered Resendiz's arguments and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

_____, J.
Saitta

_____, J.
Hardesty

_____, J.
Parraguirre

cc: Hon. Donald M. Mosley, District Judge
Keith C. Brower
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk