

IN THE SUPREME COURT OF THE STATE OF NEVADA

THERESA MARIE KLEVEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60970

FILED

FEB 13 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingham*
DEPUTY CLERK

ORDER OF AFFIRMANCE

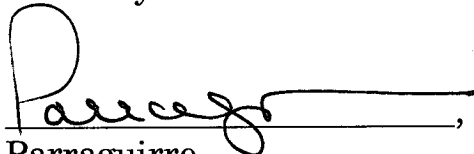
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of burglary. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

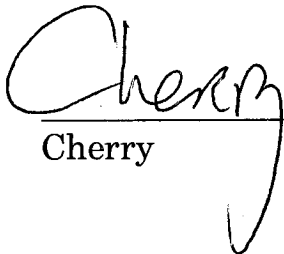
Appellant Theresa Kleven's sole argument on appeal is that the district court erred in allowing a police officer to testify that he arrested her for burglary because he believed she entered a grocery store with the intent to commit a larceny. Because Kleven did not object to this statement at trial we review for plain error affecting her substantial rights. Patterson v. State, 111 Nev. 1525, 1530, 907 P.2d 984, 987 (1995). "Additionally, the burden is on the defendant to show actual prejudice or a miscarriage of justice." Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003). At trial, the officer testified that Kleven admitted to attempting to win money at a nearby casino, and after failing to do so, entering the grocery store without any method of payment for the items that she stole. Even assuming that the officer improperly gave his opinion as to Kleven's mental state, any error was undoubtedly harmless as Kleven's statements provided evidence of her intent. Because the result at trial would not have

been different absent the statement, any error did not affect Kleven's substantial rights. Id. at 548, 80 P.3d at 97. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Brent T. Adams, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk