IN THE SUPREME COURT OF THE STATE OF NEVADA

JESUS VELASCO A/K/A JESUS TOVAR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63305

FILED

FEB 13 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of possession of a short-barreled shotgun. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

Appellant Jesus Velasco contends that the district court erred by denying his motion to suppress the shotgun because it was obtained as a result of an illegal search and seizure. The district court concluded that the shotgun was appropriately seized pursuant to the plain view doctrine. *See Luster v. State*, 115 Nev. 431, 434-35, 991 P.2d 466, 468 (1999) (citing *Coolidge v. New Hampshire*, 403 U.S. 443 (1971)). When reviewing a district court's determination regarding a motion to suppress evidence, we review its factual findings for clear error and legal conclusions de novo. *State v. Lisenbee*, 116 Nev. 1124, 1127, 13 P.3d 947, 949 (2000).

The plain view doctrine allows a police officer to seize property without a warrant so long as he is lawfully present, inadvertently discovers the property, and there is probable cause to associate the property with criminal activity. *Luster*, 115 Nev. at 434-35, 991 P.2d at 468. Velasco challenges whether there was probable cause to associate the shotgun with criminal activity before the officer seized it. Here, the officer

had been informed by Velasco's girlfriend that Velasco had held her captive in their apartment on multiple occasions by locking the door with a padlock and threatening to kill her if she attempted to escape. With the girlfriend's consent, the officer entered the apartment and saw a short-barreled shotgun hanging on the wall. He measured the shotgun, confirmed that it was short-barreled, and seized it. These facts demonstrate that there was probable cause to associate the shotgun with criminal activity and support the district court's determination that the evidence was properly seized under the plain view doctrine. *See Koza v. State*, 100 Nev. 245, 254-55, 681 P.2d 44, 50 (1984). We conclude that the district court did not err by denying Velasco's motion to suppress, and we

ORDER the judgment of conviction AFFIRMED.[1]

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

Saitta, J.
Saitta

[1]The fast track statement, response, and reply do not comply with the Nevada Rules of Appellate Procedure because they do not utilize 14-point or larger font and the footnotes in the fast track statement are not in the same size and font as the body of the brief. *See* NRAP 3C(h)(1) (requiring fast track filings to comply with the formatting requirements of NRAP 32(a)(4)-(6)); NRAP 32(a)(5). We caution counsel for both parties that future failure to comply with all applicable rules may result in the imposition of sanctions. *See* NRAP 3C(n).

cc: Hon. Kimberly A. Wanker, District Judge
Christopher R. Arabia
Nye County District Attorney
Attorney General/Carson City
Nye County Clerk