

IN THE SUPREME COURT OF THE STATE OF NEVADA

LANE CHARLIE TOM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65765

FILED

JAN 14 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

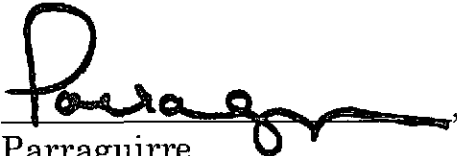
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of sexual assault with substantial bodily harm and first-degree kidnapping with substantial bodily harm. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

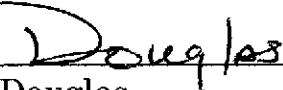
Appellant Lane Charlie Tom argues that the search warrant executed on his residence was improperly executed on the tribal reservation because it failed to comply with tribal regulations and therefore the evidence produced by that warrant should have been suppressed. Although Tom's failure to object at trial generally precludes review, this court has discretion to review for plain error that affected his substantial rights. *Gallego v. State*, 117 Nev. 348, 365, 23 P.3d 227, 239 (2001), *abrogated on other grounds by Nunnery v. State*, 127 Nev. ___, 263 P.3d 235 (2011). Our review of the record does not unmistakably reveal that the search warrant was executed on reservation territory, and we conclude that there was no plain error in the search warrant's execution. *See Patterson v. State*, 111 Nev. 1525, 1530, 907 P.2d 984, 987 (1995) ("An error is plain if the error is so unmistakable that it reveals itself by a casual inspection of the record." (internal quotation marks omitted)).

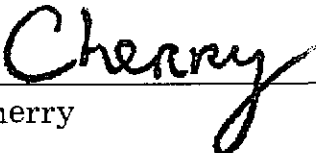
Moreover, even if the warrant was improperly executed and therefore the challenged evidence should have been suppressed, he has not demonstrated prejudice as the victim's eyewitness testimony, DNA evidence, and video surveillance inculpated him in the offense. See *Gallego*, 117 Nev. at 365-66, 23 P.3d at 239 (noting that error must normally be prejudicial to affect substantial rights and concluding that substantial rights were not affected when overwhelming evidence supported the district court's finding).

Having considered Tom's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


Parraguirre, J.


Douglas, J.


Cherry, J.

cc: Hon. Michael Montero, District Judge
Pershing County Public Defender
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk