

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ELIAS G. MONTALVO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69310

FILED

JAN 19 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE


Appellant Elias Montalvo appeals from his judgment of conviction entered pursuant to a jury verdict of second-degree murder. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.


Montalvo argues the district court erred by failing to instruct the jury on involuntary manslaughter. Montalvo failed to offer an instruction on involuntary manslaughter or otherwise object to the jury instructions that were given at trial.¹ Therefore, no relief is warranted absent a demonstration of plain error. *See Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003) ("In conducting plain error review, we must examine whether there was 'error,' whether the error was 'plain' or clear, and whether the error affected the defendant's substantial rights.").


¹To the extent Montalvo claims he preserved the alleged error by having a conversation with the district court about involuntary manslaughter, we conclude this conversation did not timely preserve the alleged error for appellate review. This conversation took place after jury instructions were settled and read to the jury.

There is no error that is plain from a casual inspection of the record. Further, Montalvo fails to demonstrate his substantial rights were affected. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. William D. Kephart, District Judge
Kenneth G. Frizzell, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk