

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSEPH RICHARD CHAFIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73905

FILED

MAY 15 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Joseph Richard Chafin appeals from a judgment of conviction entered pursuant to a guilty plea of battery causing substantial bodily harm. Ninth Judicial District Court, Douglas County; Thomas W. Gregory, Judge.

Chafin claims the State breached the terms of the parties' plea agreement by arguing for an "active prison sentence," making inflammatory references to his criminal history, repeatedly mentioning the victim's prejudicial letter, commenting on the money he spent for alcohol, stating that a minimum sentence was not appropriate in this case, presenting only factors in aggravation, and failing to present any factors in support of probation. Chafin did not preserve this claim for appeal.

We review unpreserved allegations that the State breached a plea agreement for plain error. *Sullivan v. State*, 115 Nev. 383, 387 n.3, 990 P.2d 1258, 1260 n.3 (1999). "An error is plain if the error is so unmistakable that it reveals itself by a casual inspection of the record. At a minimum, the error must be clear under current law, and, normally, the defendant must show that an error was prejudicial in order to establish that it affected


substantial rights.” *Saletta v. State*, 127 Nev. 416, 421, 254 P.3d 111, 114 (2011) (internal quotation marks, brackets, and citations omitted).


The record does not reveal the alleged errors. The guilty plea agreement provided in relevant part,

the State has agreed to recommend that any prison sentence ordered be suspended and that I be placed on probation. The parties are otherwise free to argue for any lawful sentence. I understand that, at the time of sentencing, the State may present arguments, facts, and/or witnesses in support of the plea agreement.

At sentencing, the State recommended that Chafin be sentenced to a prison term of 18 to 48 months, the sentence be suspended, and Chafin be placed on probation. The State further recommended that Chafin be ordered to spend the first 90 days of his probation in the county jail and to pay restitution. The State argued in support of its sentencing recommendations and did not suggest in any way that Chafin should not receive probation. We conclude Chafin received the benefit of his bargain and he has failed to demonstrate plain error. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Thomas W. Gregory, District Judge
Maria Pence, Esq.
Attorney General/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk