

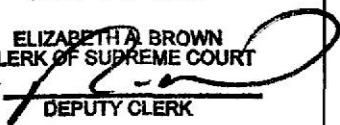
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER AARON FORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76037-COA

FILED

JUL 18 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Christopher Aaron Fore appeals from a judgment of conviction entered pursuant to a jury verdict of domestic battery. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Fore claims the district court erred by overruling his objection to the instruction on the elements of battery and rejecting his proposed instruction on the elements of battery. He asserts his proposed instruction included language stating that “[battery] is the intentional and *unwanted* exertion of force upon another, however slight.” And he argues that without this language the jury was not “instructed that the State had the burden to prove beyond a reasonable doubt that [his] touch of or grab of [the victim] was ‘unwanted.’”

Fore did not object to this instruction on the ground he now asserts. Consequently, he is not entitled to relief absent a demonstration of plain error. *See Jeremias v. State*, 134 Nev., Adv. Op. 8, at *7, 412 P.3d 43, 48 (2018); *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 94 (2003) (as a general rule, a defendant’s failure to clearly object to a jury instruction on the ground he subsequently asserts on appeal will preclude appellate review).

The record demonstrates the district court settled the jury instructions off the record and then numbered them on the record. Fore objected to instruction number 24, which stated the elements of the crime of battery.¹ He argued that the battery instruction should include a quote from *Byars v. State*, 130 Nev. 848, 336 P.3d 939 (2014), because the quote would clarify the elements of the crime and would be significant as to whether he actually intended to commit a willful or unlawful use of force.

The district court considered the arguments of counsel and made the following observations: “[S]imply because the Nevada Supreme Court has said something in a published disposition, does not mean that it has to be included in a jury instruction if the law [in that instruction] is accurately stated.” The battery instruction accurately states the law. The instructions in their totality correctly apprise the jury of the nature of the offense and the criminal intent required. And some of the language from Fore’s proposed instruction has been incorporated into instruction number 24.

The record demonstrates the jury was accurately instructed on the law, and we conclude Fore has not demonstrated the district court

¹Instruction number 24 provided,

Battery is the willful and unlawful use of force or violence upon the person of another, however slight.


The amount of force or violence used in the commission of the offense need not be violent or severe and need not cause bodily pain or bodily harm. Force or violence has a special legal meaning of harmful or offensive touching.

The jury was also instructed on the definition of “willful.”

committed plain error by rejecting his proposed instruction. Accordingly,
we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Elliott A. Sattler, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk