

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

REX ANTHONY ODOM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79805-COA

FILED

DEC 11 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Rex Anthony Odom appeals from a judgment of conviction, entered pursuant to a guilty plea, of robbery with the use of a deadly weapon, invasion of the home, assault with a deadly weapon, prohibited person in possession of a firearm, and carrying a concealed firearm. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

Odom claims he did not knowingly and intelligently plead guilty because he misunderstood mandatory minimum sentences. Odom did not challenge the validity of his plea below, and we decline to consider this claim because it is not properly raised in the first instance on direct appeal. *See Harris v. State*, 130 Nev. 435, 448, 329 P.3d 619, 628 (2014) (“[A] post-conviction petition for a writ of habeas corpus provides the exclusive remedy for a challenge to the validity of the guilty plea made after sentencing.”).

Odom next claims that, although he admitted to his prior felony conviction during the plea canvass, the State erred by failing to admit

additional evidence of his prior felony conviction to support the charge of felon in possession of a firearm. Odom failed to object to the State's alleged error below, and therefore, he did not preserve it for review. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018) ("The failure to preserve an error . . . forfeits the right to assert it on appeal."). We may nevertheless review a forfeited issue for plain error, *id.*, but the appellant bears the burden of demonstrating plain error, *Miller v. State*, 121 Nev. 92, 99, 110 P.3d 53, 58 (2005). Odom fails to argue plain error, and we therefore decline to exercise our discretion and review this alleged error on appeal. *See Jeremias*, 134 Nev. at 52, 412 P.3d at 49.

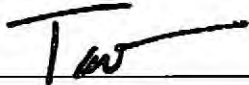
Finally, Odom argues the district court committed plain error by failing to establish on the record its rationale for the sentence on the deadly weapon enhancement. A district court is required to make specific findings for each deadly weapon enhancement factor listed in NRS 193.165(1). *Mendoza-Lobos v. State* 125 Nev. 634, 642, 218 P.3d 501, 506 (2009). Because Odom did not object below, he is not entitled to relief absent a demonstration of plain error. *See Jeremias*, 134 Nev. at 50, 412 P.3d at 48-49. To demonstrate plain error, an appellant must show there was an error, the error was plain or clear, and the error affected appellant's substantial rights. *Id.* at 50, 412 P.3d at 48.

The record before this court shows the district court received information regarding each of the deadly weapon sentencing factors and commented on them during its colloquy with Odom. Accordingly, we cannot conclude Odom has demonstrated error plain from the record. Further, this record demonstrates the district court considered the factors, and the sentence of three to eight years imposed for the deadly weapon

enhancement is within the parameters provided by the relevant statute, *see* NRS 193.165(1). Therefore, Odom also fails to demonstrate that the error affected his substantial rights. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Steve L. Dobrescu, District Judge
Sears Law Firm, Ltd.
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk