

IN THE SUPREME COURT OF THE STATE OF NEVADA

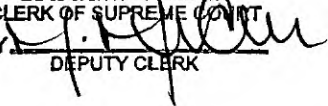
BRIAN AUGUSTIN RODRIGUEZ-
SIGALA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87186

FILED

NOV 13 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of murder with the use of a deadly weapon and carrying a concealed weapon. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

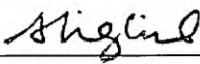
Appellant Brian Rodriguez-Sigala contends that the district court abused its discretion by excluding evidence of the victim's HIV status. Rodriguez-Sigala argues that this evidence was relevant to showing that unwanted sexual advances by the victim constituted provocation "sufficient to excite an irresistible passion in a reasonable person," supporting the lesser-included offense of manslaughter. *Newson v. State*, 136 Nev. 181, 185, 462 P.3d 246, 250 (2020) (quoting NRS 200.050(1)).


Generally, we review the exclusion of evidence for an abuse of discretion. *McLellan v. State*, 124 Nev. 263, 269, 182 P.3d 106, 110 (2008). A motion in limine may preserve an evidentiary challenge without need for another objection where the objection has been fully briefed and considered during a hearing and the district court has made a "definitive ruling." *Richmond v. State*, 118 Nev. 924, 932, 59 P.3d 1249, 1254 (2002). That said, Rodriguez-Sigala's opposition to the State's motion in limine did not preserve the error for review. The district court concluded during the

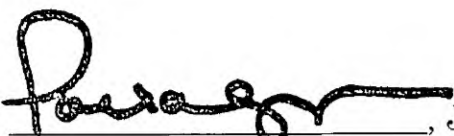
pretrial motion hearing that the victim's HIV status was irrelevant, but the court anticipated revisiting the issue if Rodriguez-Sigala chose to testify. Rodriguez-Sigala did not testify or ask the court to revisit the admissibility ruling during trial. Therefore, we review the district court's decision for plain error affecting the defendant's substantial rights. *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003).

We conclude that the district court's decision did not constitute error, let alone plain error. A defendant asserting that information about the victim affected the defendant's state of mind at the time of the offense must show that the defendant knew of that information. *See Daniel v. State*, 119 Nev. 498, 515, 78 P.3d 890, 902 (2003) (knowledge of victim's character for violence). Thus, for Rodriguez-Sigala to assert that fear caused by the victim's unwanted sexual advances was heightened by the victim's HIV status, Rodriguez-Sigala had to show that he knew about the status at the time of the encounter. *See Ragland v. Commonwealth*, 476 S.W.3d 236, 253-54 (Ky. 2015). Rodriguez-Sigala did not testify at trial and the record fails to establish that Rodriguez-Sigala was aware of the victim's HIV diagnosis at the time of the shooting. Therefore, the district court correctly ruled that this evidence was not relevant. *See* NRS 48.015 (defining "relevant evidence" as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable"). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Stiglich


_____, J.
Herndon


_____, J.
Parraguirre

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