


IN THE SUPREME COURT OF THE STATE OF NEVADA

KAMANI JA'MAD HOLMES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86494

FILED

FEB 14 2025

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 attempted fraudulent use of a credit or debit card; attempt to obtain money, property, rent, or labor by false pretense, value more than \$5,000 but less than \$25,000; obtaining and using personal identity information of another to harm another person or for other unlawful purpose; and forgery. Second Judicial District Court, Washoe County; Kathleen M. Drakulich, Judge.

Appellant Kamani Ja'mad Holmes first argues that sufficient evidence does not support the conviction for attempted fraudulent use of a credit card, stressing that the State did not show that Holmes had physical or electronic possession of Vishal Jangla's credit card. The State elicited testimony that, at Michael's Powersports in Reno, Holmes attempted to charge \$12,258.31 to a credit card with the last four digits matching those of Jangla's credit card. Jangla received a text message fraud alert from his bank reporting an attempted purchase at Michael's Powersports in the amount of \$12,258.31 and declined the transaction. Jangla testified that he did not consent to Holmes's use of the credit card. A sales representative testified that Holmes presented identification with a name other than "Jamani Holmes," and a finance director testified that Holmes's signature "absolutely" did not state "Jamani Holmes." The State thus presented

sufficient evidence from which a rational juror could conclude that Holmes attempted to use the credit card information of another to obtain property without the cardholder's consent. See NRS 193.153(1) (defining attempt); NRS 205.760(1)(b) (defining the offense of fraudulent use of a credit card); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (concluding that sufficient evidence supports a conviction where "after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt"); *Origel-Candido v. State*, 114 Nev. 378, 381, 956 P.2d 1378, 1380 (1998). We therefore conclude that Holmes has not shown that relief is warranted in this regard.

Holmes next argues that sufficient evidence does not support the conviction for obtaining and using the personal identity information of another to harm that person or for any other unlawful purpose. Holmes argues that because the State charged the offense under alternative theories, alleging that he used the personal information of Jangla and/or Adam Foster, the conviction cannot stand where the State did not proffer evidence that Adam Foster existed. Holmes notes that the jury returned a general verdict that did not indicate under which theory it found guilt. Holmes's claim rests on a misapprehension of law. "A unanimous general verdict of guilt will support a conviction so long as there is substantial evidence in support of one of the alternate theories of culpability." *Anderson v. State*, 121 Nev. 511, 515, 118 P.3d 184, 186 (2005). The State presented evidence that Holmes obtained Jangla's credit card number and used that information with the intent to incur a \$12,258.31 expense that would ultimately be borne by either Jangla or Michael's Powersports without receipt of a corresponding good or service. Sufficient evidence was thus


presented for a rational juror to conclude that Holmes obtained the personal identifying information of another and used it with the intent to unlawfully harm another person. See NRS 205.4617(1)(a) (providing that a credit card number is personal identifying information in this context); NRS 205.463(1) (defining the offense of obtaining and using the personal identity information of another to harm or for unlawful purpose). We therefore conclude that Holmes has not shown that relief is warranted in this regard.

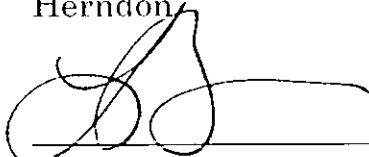
Lastly, Holmes argues that jury instruction 4 misstated the law because it incorrectly set forth the mens rea for obtaining the personal information of another to harm that person or for another unlawful use, stating that the offense must be committed “willingly” rather than “knowingly” as stated in the statute. Holmes did not object to the instruction at trial, and we therefore review for plain error, which Holmes has not shown. See *Valdez v. State*, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008). Plain error requires showing an error plain from the record that affected a defendant’s substantial rights by way of actual prejudice or a miscarriage of justice. *Id.* While the instruction should have followed the statute precisely, Holmes has not shown that the instruction given caused prejudice, as an action performed willingly is performed knowingly. See 22 C.J.S. *Criminal Law: Substantive Principles* § 31 (“In a criminal statute, the word ‘willfully’ generally means a voluntary, intentional violation of a *known* legal duty in bad faith or with evil purpose. The term ‘willfully’ thus requires a defendant to have acted with *knowledge* that his conduct was unlawful.” (emphasis added) (footnote omitted)). Further, jury instruction 22, in specifically defining this offense, correctly instructed the jury that it must find the action was performed knowingly. See *Greene v. State*, 113 Nev. 157, 167-68, 931 P.2d 54, 61 (1997) (stating that all jury instructions


must be read together when evaluating the effect of a challenged instruction). Holmes has not shown error that is plain from the record causing actual prejudice or a miscarriage of justice. We therefore conclude that Holmes has not shown that relief is warranted in this regard.

Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Kathleen M. Drakulich, District Judge
Ristenpart Law
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk