

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BARRY DENNIS ANTHONY PULEO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 89383-COA

**FILED**

**JUN 25 2025**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Barry Dennis Anthony Puleo appeals from a judgment of conviction, entered pursuant to a jury verdict, of failure to stop at the scene of a crash involving death or personal injury. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

In April 2023, Puleo was driving on I-80 with his fiancée, Lyndsie Gregg-Rister, when he crashed into the median barrier. Emergency medical technicians who observed the crash responded and helped both Puleo and Gregg-Rister out of the vehicle. Shortly thereafter, Puleo ran up a nearby hill and was stopped by a Nevada Highway Patrol trooper who called for an ambulance to take an apparently injured Puleo to the hospital.

Gregg-Rister, who remained at the scene, informed the EMTs that she was fine and did not need medical treatment. Nevertheless, she got into an ambulance to confirm that she was not injured. When speaking with the EMTs, she described a “severe pain” in her breast, as well as pain in her wrist and thigh. Gregg-Rister also had bruises which she believed to have been caused by the seatbelt restraining her during the impact. The

EMTs did not transport Gregg-Rister to the hospital. Although Gregg-Rister did not seek medical treatment for any physical injuries from the crash, she visited the hospital due to a panic attack on the night of the crash. While at the hospital, Gregg-Rister was again evaluated for crash-related injuries.

Puleo was ultimately charged with failing to stop at the scene of a crash involving death or personal injury, in violation of NRS 484E.010 and NRS 484E.030, and the matter proceeded to a two-day jury trial. Gregg-Rister testified under subpoena by the State. She confirmed for the jury that she told the EMTs that she was fine, but she also agreed that she told a trooper that her breast "severely hurt" following the crash. She further explained to the jury that she felt pain and had bruises for about four days after the accident.

Toward the end of Gregg-Rister's direct examination, the State asked whether she and Puleo lived together. When Gregg-Rister indicated that she no longer lived with Puleo, the State asked, "You don't live together anymore?" Gregg-Rister responded, "No. He's in an institution somewhere."

Shortly after this exchange, the State finished its direct examination, and the court took a break. During that break, Puleo objected and claimed "[t]hat was an improper question [by the State]. He knew that Mr. Puleo was not living with the witness at that time. And then it brought out a prior bad act. And we're going to object to that and move for a mistrial." The State responded that it was unaware that Puleo was at a rehabilitation facility full-time and that any improper testimony could be cured by an admonishment by the district court. The district court overruled Puleo's objection and denied his request for a mistrial.

Immediately following the break, the district court instructed the jury to disregard Gregg-Rister's answer to the State's question.

On cross-examination, Gregg-Rister said that she did not feel that she needed medical attention, but that highway patrol insisted she get in the ambulance. She also explained that she believed her pain was caused by her seatbelt being wrapped tightly around her and that she had no lasting physical effects.

Prior to closing arguments, the parties made a record of their objections to various jury instructions. Relevant here, the State objected to jury instruction 20 defining personal injury. That instruction stated: "Personal Injury is defined as either physical harm or mental disturbance, such as fright and shock, resulting from physical harm or from threatened physical harm or other injury to oneself or to another, *which results in the need for medical treatment.*" (Emphasis added.) The State argued that the need for medical treatment was not an element of the crime, and that it would be an inappropriate and confusing jury instruction. Over the State's objection, the district court gave this instruction to the jury.

Despite this jury instruction, the State argued in closing, without objection, that it was not required to show that Gregg-Rister needed or sought medical treatment. Puleo, in contrast, relied on the personal injury instruction to argue that Gregg-Rister neither wanted nor sought medical treatment, and thus she was not injured at the scene of the crash for purposes of NRS 484E.010. In rebuttal, the State again argued without objection that the law did not require the need for medical treatment.

Following deliberations, the jury found Puleo guilty. The district court sentenced Puleo to a term of incarceration of 24-60 months, and he timely appealed. On appeal, Puleo argues the district court abused

its discretion in denying his motion for a mistrial. He further argues, based on the court's personal injury jury instruction, that the State committed prosecutorial misconduct by arguing that it did not have to show the victim needed medical treatment and that the State presented insufficient evidence to support his conviction because it did not prove the same. Upon review, we disagree and thus affirm.

*The district court did not abuse its discretion in denying Puleo's motion for a mistrial*

Puleo argues that the State impermissibly elicited prior bad act evidence at trial and, therefore, the district court should have granted his motion for a mistrial. Specifically, Puleo contends that the State improperly elicited Gregg-Rister's testimony that Puleo no longer lived with her because he was "in an institution somewhere." In response, the State argues that Gregg-Rister's comment was an unsolicited response to a clarifying question about Gregg-Rister's cohabitation with Puleo, and that any prejudice from the answer was eliminated by the district court's curative instruction. Under these facts, Puleo has not shown a basis for relief.

"Denial of a motion for a mistrial is within the sound discretion of the district court, and that ruling will not be reversed absent a clear showing of abuse of discretion." *McKenna v. State*, 114 Nev. 1044, 1055, 968 P.2d 739, 746 (1998). A district court abuses its discretion if its "decision is arbitrary or capricious or if it exceeds the bounds of law or reason." *Jackson v. State*, 117 Nev. 116, 120, 17 P.3d 998, 1000 (2001). Although evidence of a prior bad act "is not admissible to prove the character of a person in order to show that the person acted in conformity therewith," NRS 48.045(2), "[a] witness's spontaneous or inadvertent references to inadmissible material, not solicited by the prosecution, can be

cured by an immediate admonishment directing the jury to disregard the statement,” *Carter v. State*, 121 Nev. 759, 770, 121 P.3d 592, 599 (2005).

Even if Gregg-Rister’s reference to an “institution” could be considered prior bad act evidence, this information was not *elicited* by the State and was instead, like in *Carter*, a spontaneous or inadvertent reference to inadmissible material. The State sought to confirm that Gregg-Rister did not live with Puleo; it did not ask Gregg-Rister where Puleo was residing or why they did not live together.

Because Gregg-Rister’s reference to an “institution” was not elicited by the prosecution, even if it constituted prior bad act evidence, it could be cured by an immediate admonishment by the district court to disregard that statement. That procedure was followed here: after Gregg-Rister’s direct examination and the subsequent break where the objection was made, the district court immediately instructed the jury that Gregg-Rister “said that [Puleo] was at some kind of institution. That, in my view, was unresponsive to the question. I’m instructing you to ignore it. That it is not part of our evidence in this case, that answer.” This was sufficient to cure any prejudice. *See Rose v. State*, 123 Nev. 194, 207, 163 P.3d 408, 417 (2007) (holding a district court did not abuse its discretion in denying a motion for a mistrial where the court admonished the jury to disregard the challenged testimony); *see also Summers v. State*, 122 Nev. 1326, 1333, 148 P.3d 778, 783 (2006) (“[T]his court generally presumes that juries follow district court orders and instructions.”). Thus, we conclude the district court did not abuse its discretion in denying Puleo’s request for a mistrial.

*Puleo’s remaining arguments do not warrant reversal*

Puleo makes two additional arguments on appeal, both premised on his claim that the victim’s need for medical treatment is an element of the offense of failing to stop at the scene of a crash involving

death or personal injury, as reflected in the district court's "personal injury" jury instruction. First, Puleo contends that the State committed prosecutorial misconduct during its closing argument by ignoring the personal injury jury instruction and arguing that it did not need to demonstrate that Gregg-Rister required medical treatment. Second, and similarly, Puleo argues that his conviction is not supported by sufficient evidence because the State failed to prove that Gregg-Rister required or sought medical treatment for her injuries. Because the victim's need for medical treatment is not an element of the crime, Puleo cannot demonstrate that the State's closing argument was plainly erroneous. For the same reason, we reject Puleo's argument that his conviction was not supported by sufficient evidence.

"Although we generally review jury instructions for an abuse of discretion or judicial error, when the question is whether an instruction is an accurate statement of the law, our review is de novo." *Moore v. State*, 136 Nev. 620, 622, 475 P.3d 33, 35 (2020). "Statutory interpretation is a question of law subject to de novo review." *State v. Catanio*, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004). "When a statute is clear on its face, it is unambiguous, and the court may not go beyond it to determine legislative intent." *Sena v. State*, 138 Nev. 310, 322, 510 P.3d 731, 745 (2022).

The district court has a duty to "instruct on general principles of law relevant to the issues raised by the evidence." *Gonzalez v. State*, 131 Nev. 991, 997, 366 P.3d 680, 684 (2015) (quoting *People v. Alexander*, 235 P.3d 873, 935 (Cal. 2010)). With this duty comes a "correlative duty to refrain from instructing on principles of law which not only are irrelevant to the issues raised by the evidence but also have the effect of confusing the

jury or relieving it from making findings on relevant issues.” *Id.* (quoting *Alexander*, 235 P.3d at 935).

NRS 484E.010 sets forth the elements for the crime of failing to stop at the scene of a crash involving death or personal injury. That statute provides, in pertinent part, that

[t]he driver of any vehicle involved in a crash . . . resulting in bodily injury to . . . a person shall immediately stop his or her vehicle at the scene of the crash or as close thereto as possible, and shall forthwith return to and in every event shall remain at the scene of the crash until the driver has fulfilled the requirements of NRS 484E.030.

NRS 484E.010(1). Although the title of NRS 484E.010 refers to “personal injury,” the text of the statute requires a showing of “*bodily injury*.”<sup>1</sup> (Emphasis added.) Moreover, although jury instruction 16 advised jurors that the *name* of the charged crime was, “DUTY TO STOP AT SCENE OF CRASH INVOLVING PERSONAL INJURY,” it did not include personal injury as an element of the offense. Instead, the instruction informed jurors the crime consisted of the “following elements,” including that “[t]he crash resulted in *bodily injury* of a person.”<sup>2</sup> (Emphasis added.)

The plain language of NRS 484E.010(1) requires the State to prove that a person suffered “bodily injury.” NRS 484E.010 does not define

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<sup>1</sup>The term “bodily” was added to modify the term “injury” in 1983. See Nev. Stat., ch. 426, § 4, at 1066-67.

<sup>2</sup>The jury instruction listing the elements of the crime was tailored from the Nevada pattern jury instruction on the same. See Nevada Pattern Jury Instructions: Criminal § 20.04 (State Bar of Nevada 2023). The pattern jury instruction also only includes the term “bodily injury” as an element. *Id.*

“bodily injury.” However, “[w]hen this court interprets the plain language of a statute, the court presumes that the Legislature intended to use words in their usual and natural meaning.” *Wyman v. State*, 125 Nev. 592, 607, 217 P.3d 572, 583 (2009) (cleaned up). The phrase “bodily injury” has a plain, unambiguous meaning: “[p]hysical damage to a person’s body.” *Injury*, *Black’s Law Dictionary* (12th ed. 2024).

Neither the text of NRS 484E.010(1) nor the plain meaning of “bodily injury” requires that a victim seek or receive medical treatment. Nor does the reference to “personal injury” in the statute’s title suggest the State is required to make such a showing.<sup>3</sup> See *Banegas v. State Indus. Ins. Sys.*, 117 Nev. 222, 230, 19 P.3d 245, 250 (2001) (“The title of a statute may also be considered in determining legislative intent.”). Thus, the State did not have to prove that Gregg-Rister sought or received medical treatment. To the extent the district court sought to define “bodily injury” by providing an instruction defining “personal injury,” the district court’s instruction was erroneous because it added an element to the crime that is not provided by the statute’s plain language.<sup>4</sup>

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<sup>3</sup>It appears the definition of “personal injury” provided by the district court is derived from NRS 217.050(1), which defines “personal injury” as “[a]ctual bodily harm . . . which results in a need for medical treatment.” However, NRS 217.050(1) does not define the term “bodily injury” or otherwise relate to the crime of failing to stop at the scene of a crash involving death or personal injury. See NRS 217.020 (indicating the definition of “personal injury” provided for in NRS 217.050(1) only applies “[a]s used in NRS 217.010 to NRS 217.270,” which relate to compensation for certain victims of criminal acts). Thus, absent an applicable statutory definition to the contrary, the plain meaning of “bodily injury” controls in determining whether an offense was committed under NRS 484E.010.

<sup>4</sup>We note that the district court’s error in including this instruction was harmless. See NRS 178.598 (“Any error, defect, irregularity or variance



Having determined that a victim's need for medical treatment is not an element of failing to stop at the scene of a crash involving death or personal injury, we now turn to Puleo's argument that the State committed prosecutorial misconduct by arguing that point to the jury. This court reviews claims of prosecutorial misconduct by undertaking a two-step analysis: (1) determining whether the prosecutor's conduct was improper and, if so, (2) evaluating whether the improper conduct warrants reversal. *Valdez v. State*, 124 Nev. 1172, 1188, 196 P.3d 465, 476 (2008).

As noted above, Puleo did not object when the State argued that it was not required to show that Gregg-Rister needed or sought medical treatment, therefore we review this claim of prosecutorial misconduct for plain error. *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018) (stating that "[t]he failure to preserve an error . . . forfeits the right to assert it on appeal" and "[b]efore this court will correct a forfeited error, an appellant must demonstrate that: (1) there was an 'error'; (2) the error is 'plain,' meaning that it is clear under current law from a casual inspection of the record; and (3) the error affected the defendant's substantial rights." (quoting *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003))). While the State's argument appeared to contradict the district court's jury instruction defining "personal injury," we cannot say that the State plainly erred in making that argument, because it correctly stated the law. Therefore, even if the State's conduct was improper, Puleo has not shown that reversal is warranted under a plain error standard of review. *Cf.*

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which does not affect substantial right shall be disregarded."). Because the inclusion of this jury instruction seemingly heightened the State's burden by requiring proof of an additional element, it is clear that its erroneous inclusion in the jury instructions did not affect Puleo's substantial rights.


*United States v. Flores*, 802 F.3d 1028, 1034-37 (9th Cir. 2015) (stating that a prosecutor commits misconduct by *misstating* the law in closing arguments); *Sindelar v. State*, 132 Nev. 683, 688-89, 382 P.3d 904, 907 (2016) (concluding that where the defense focused in closing arguments on an issue outside the jury's scope, the State was "well within its right to try to refocus the jury on the elements of the offense and whether the State proved those elements beyond a reasonable doubt").


Similarly, because the State was not required to show that the injury resulted in the need for medical treatment, Puleo's argument that the State failed to prove that Gregg-Rister needed medical treatment does not provide a basis for relief.<sup>5</sup> See *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (stating that when analyzing the sufficiency of the evidence, this court examines whether any rational trier of fact "could have found *the essential elements of the crime* beyond a reasonable doubt" (emphasis added) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979))).

Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Bulla

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Westbrook

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<sup>5</sup>Insofar as Puleo has raised other arguments not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Scott N. Freeman, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk