IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IMANI LAKEISTA COOK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89585-COA

FILED
SEP 29 2025
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Imani Lakeista Cook appeals from a district court order denying a motion to modify sentence filed on July 28, 2024. Eighth Judicial District Court, Clark County; Carli Lynn Kierny, Judge.

Cook argues District Court Judge Carli Lynn Kierny could not adjudicate her motion and that District Court Judge Jennifer Togliatti had to adjudicate her motion as the judge who presided over her sentencing pursuant to NRS 175.101. Cook did not object on this ground below; therefore, we review for plain error. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018). To demonstrate plain error, an appellant must show "(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." *Id.*

NRS 175.101 provides as follows:

> If by reason of absence from the judicial district, death, sickness or other disability the judge before whom the defendant has been tried is unable to perform the duties to be performed by the court after a verdict or finding of guilty or guilty but mentally ill, any other judge regularly sitting in or assigned to the court may perform those duties, but if such other judge is satisfied that he or she cannot

> perform those duties because he or she did not preside at the trial or for any other reason, the judge may in his or her discretion grant a new trial.

The supreme court has held that, "[b]y its own terms, NRS 175.101 only applies when a judge *tries* a case. NRS 175.101 does not apply where a defendant waives his or her right to a trial and enters into a guilty plea agreement." *Harvey v. State*, 136 Nev. 539, 544 n.4, 473 P.3d 1015, 1019 n.4 (2020). Here, Cook waived her right to a trial and pleaded guilty to second-degree murder with the use of a deadly weapon. Therefore, NRS 175.101 does not apply to Cook's motion, and Cook fails to demonstrate any plain error.[1] Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

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[1]To the extent Cook disagrees with or challenges the supreme court's interpretation of NRS 175.101 in *Harvey*, such disagreement does not demonstrate error that is clear under current law from a casual inspection of the record. Further, this court cannot overrule supreme court precedent. *See Eivazi v. Eivazi*, 139 Nev. 408, 418 n.7, 537 P.3d 476, 487 n.7 (Ct. App. 2023).

cc: Hon. Carli Lynn Kierny, District Judge
Ewing WN Enterprises LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk