

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NEVIN PARROS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90373-COA

FILED

JAN 13 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY James
DEPUTY CLERK

ORDER OF AFFIRMANCE

Nevin Parros appeals from a judgment of conviction, entered pursuant to a jury verdict, of discharging a firearm from or within a structure or vehicle; 10 counts of discharging a firearm at or into an occupied structure, vehicle, aircraft, or watercraft; battery with the use of a deadly weapon; battery with the use of a deadly weapon resulting in substantial bodily harm; and 6 counts of assault with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

First, Parros argues the district court abused its discretion by denying his motion to sever his and his codefendant A. Johnson's joint trial. NRS 174.165(1) provides that a trial judge may sever a joint trial if "it appears that a defendant . . . is prejudiced by a joinder of . . . defendants . . . for trial together." A district court's denial of a motion for severance is reviewed for an abuse of discretion. *Chartier v. State*, 124 Nev. 760, 764, 191 P.3d 1182, 1185 (2008). "We base our review on the facts as they appeared at the time of the district court's decision." *Rimer v. State*, 131 Nev. 307, 320, 351 P.3d 697, 707 (2015).

Parros first contends that his trial should have been severed from Johnson's because his and Johnson's defenses were mutually exclusive and that the district court's decision to deny his motion forced him to alter his defense strategy, affecting his right to a fair trial. Prior to trial, Parros proffered that his defense was that he was not the shooter and the shots were not fired from their vehicle. Johnson proffered prior to trial that his defense was that Parros was the shooter and Johnson was merely present.

Severance on the basis of inconsistent defenses will be warranted where "the defendants [have] conflicting and irreconcilable defenses and there is danger that the jury will unjustifiably infer that this conflict alone demonstrates that both are guilty." *Jones v. State*, 111 Nev. 848, 854, 899 P.2d 544, 547 (1995) (alteration in original) (quotation marks omitted). But "the [inconsistent-defense] doctrine is a very limited one," *id.*, and "mutually antagonistic defenses are not prejudicial *per se*," *Marshall v. State*, 118 Nev. 642, 647, 56 P.3d 376, 379 (2002) (cleaned up). Rather, to demonstrate prejudice, a defendant must "show that the joint trial compromised a specific trial right or prevented the jury from making a reliable judgment regarding guilt or innocence." *Id.* at 648, 56 P.3d at 380. "To establish that joinder was prejudicial requires more than simply showing that severance made acquittal more likely," and reversal is warranted only if misjoinder "has a substantial and injurious effect on the verdict." *Id.* at 647, 56 P.3d at 379.

At the time of the district court's decision regarding the request to sever the joint trial, Parros and Johnson's proffered defenses would not lead the jury to infer their conflicting defenses *alone* demonstrated that both were guilty. While Johnson's defense was that Parros was the shooter and Johnson himself was merely present, Parros' defense was that both men

were not guilty because someone else was the shooter. In light of these circumstances, Parros fails to demonstrate the conflicting defenses prevented the jury from making a reliable judgment regarding his guilt or innocence. Therefore, we conclude he is not entitled to relief based on this claim.

Parros also contends his trial should have been severed from Johnson's because, at the time of the hearing on his motion to sever, he "expanded the motion to include the argument" that there were "potentially *Bruton*¹¹ issues with statements of Johnson being used which implicated Parros." Even assuming Parros preserved this issue for review, *see Richmond v. State*, 118 Nev. 924, 932, 59 P.3d 1249, 1254 (2002) (providing that a pretrial motion preserves an issue for appeal, so long as "[the] objection has been fully briefed, the district court has thoroughly explored the objection during a hearing on a pretrial motion, and the district court has made a definitive ruling"), we need not consider it on appeal because Parros does not include the statements in his opening brief or cogently argue how they implicated *Bruton*, *see Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court."). Accordingly, we conclude the district court did not abuse its discretion in denying Parros' motion to sever his and Johnson's joint trial.

Second, Parros argues the district court abused its discretion by denying his motion for a mistrial following a witness's testimony that the reason she did not initially identify Parros to police was because she was

¹¹*Bruton v. United States*, 391 U.S. 123 (1968).

scared for her and her child's life as she and Parros "know some of the same group of people." Parros contends his motion for a mistrial should have been granted because this testimony was similar to the admission of other act evidence. We review a trial court's denial of a motion for mistrial for an abuse of discretion. *Smith v. State*, 110 Nev. 1094, 1102-03, 881 P.2d 649, 654 (1994).

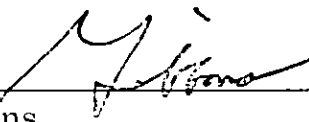
Other than noting the prosecutor said outside the presence of the jury that the witness knew Parros had just gotten out of prison, Parros fails to cogently argue how the witness's testimony about her general fear of Parros amounted to other act evidence warranting a mistrial. See NRS 48.045(2) ("Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith."); cf. *Rice v. State*, 108 Nev. 43, 44, 824 P.2d 281, 282 (1992) (providing that a mistrial may be warranted as a violation of due process where a witness references the defendant's criminal history "[b]ecause it affects the presumption of innocence"). Therefore, we need not consider this claim. See *Maresca*, 103 Nev. at 673, 748 P.2d at 6.

Finally, Parros argues the district court erred by failing to remove and replace a juror who refused to deliberate after the jury expressed confusion about the instructions by asking questions. Parros did not seek removal and replacement of the juror, and thus we review for plain error. See *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48-49 (2018). To demonstrate plain error, an appellant must show there was an error, the error is plain or clear under current law from a casual inspection of the record, and the error affected the appellant's substantial rights. *Id.* at 50, 412 P.3d at 48. During deliberations, the district court received a note from the foreperson representing that one of the jurors was asking to be excused

from jury duty. Concerned that this juror was impeding deliberations, the district court brought the foreperson in the courtroom and asked about the situation. The foreperson represented that, while the juror was participating at times and “check[ing] out” at times, he was not impeding deliberations. Parros thus fails to demonstrate the district court plainly erred by failing to remove and replace the juror. Therefore, we conclude he is not entitled to relief based on this claim. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Michelle Leavitt, District Judge
Adras & Altig Attorneys at Law
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk