

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MONIQUE BREZHA CONNER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 89573-COA

**FILED**

**MAY 04 2026**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *Elizabeth A. Brown*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Monique Brezha Conner appeals from a judgment of conviction, entered pursuant to a jury verdict, of two counts of battery with the use of a deadly weapon resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Monica Trujillo, Judge.

Conner argues the State failed to present sufficient evidence that she committed a battery. Specifically, she claims she presented evidence of self-defense and the State failed to rebut it. When reviewing a challenge to the sufficiency of the evidence, we review the evidence in the light most favorable to the prosecution and determine whether “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); accord *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). “[I]t is the function of the jury, not the appellate court, to weigh the evidence and pass upon the credibility of the witness.” *Walker v. State*, 91 Nev. 724, 726, 542 P.2d 438, 439 (1975).

At trial, the State presented evidence that Conner was angry with the victim. The victim testified that Conner made aggressive statements as she walked up to the victim on the day of the incident. The victim and the victim’s daughter, who witnessed the incident, testified that

Conner pulled a camping axe out and struck the victim twice in the neck area with the camping axe. Evidence was presented that there were two separate wounds to the victim's neck. The victim and her daughter also testified that the only people present were the three of them—the victim, her daughter, and Conner—until after Conner swung at the victim.

Conner testified she acted in self-defense. She testified that the victim had a reputation for violence, carried a gun, and had previously threatened her. Conner stated that on the day of the incident, she did not pull out the camping axe until she thought she saw the victim pulling out a firearm. The police did not find a firearm in the vicinity of the victim when they arrived, and the victim testified she did not have a firearm that night. Conner further alleged that, during the altercation, a friend of hers stood between her and the victim.<sup>1</sup> She also testified she only swung the camping axe once.

While there was conflicting testimony regarding the incident, it was for the jury to determine credibility and weigh the evidence. *See Rose v. State*, 123 Nev. 194, 202-03, 163 P.3d 408, 414 (2007) (providing that this court will not reweigh the evidence or substitute its judgment for that of the jury). The jury was presented with testimony from the victim and her daughter about the incident that conflicted with Conner's testimony that she acted in self-defense, and it found that Conner battered the victim with a deadly weapon causing substantial bodily harm. We conclude the State met its burden of disproving self-defense. *See Hill v. State*, 98 Nev. 295, 297, 647 P.2d 370, 371 (1982) (holding that once self-defense has been raised, the State has "the burden of proving absence of justification or

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<sup>1</sup>The friend did not testify at trial.

excuse for the [actions]”). Further, from the evidence presented, we conclude a rational juror could have found the elements of the crime beyond a reasonable doubt, *see* NRS 200.481(1)(a), (2)(e)(2), and we therefore conclude Conner is not entitled to relief on this claim.

Next, Conner argues she could not have been convicted of two separate batteries stemming from the single altercation with the victim. Instead, she argues the unit of prosecution should have been one battery. Conner did not object to the unit of prosecution below; thus, her claim is forfeited. However, this court may review the forfeited claim 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 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.” *Id.* It is the appellant’s burden to demonstrate plain error. *See Miller v. State*, 121 Nev. 92, 99, 110 P.3d 53, 58 (2005).

Conner argues that, because the battery statute uses the word “any,” the battery statute is ambiguous as to how many times she can be charged for a series of unbroken actions.<sup>2</sup> Further, Conner argues that the legitimate tools of statutory interpretation do not resolve the ambiguity. Thus, based on the rule of lenity, she argues she should have been charged with only one count of battery. Accepting Conner’s argument that the statutory language is ambiguous and that the ambiguity is not resolved by other tools of statutory interpretation, Conner’s argument fails to

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<sup>2</sup>NRS 200.481(1)(a) provides that “[b]attery’ means *any* willful and unlawful use of force or violence upon the person of another.” (Emphasis added.)

demonstrate an error that is clear under current law from a casual inspection of the record. Additionally, she fails to cite to any legislative history or caselaw that clearly demonstrates the unit of prosecution for the crime of battery. Therefore, we conclude Conner fails to demonstrate plain error and, thus, she is not entitled to relief on this claim.

Next, Conner argues the district court erred by giving the jury a flight instruction. Conner did not object to the flight instruction; thus, her claim is forfeited. This court may review a forfeited claim for plain error. *See Jeremias*, 134 Nev. at 50, 412 P.3d at 48. A flight instruction is proper where “the record supports the conclusion that the defendant fled with consciousness of guilt and to evade arrest.” *Rosky v. State*, 121 Nev. 184, 199, 111 P.3d 690, 699-700 (2005). Flight is “more than a mere going away,” and this court will “carefully scrutinize[ ] the record to determine if the evidence actually warranted the [flight] instruction.” *Weber v. State*, 121 Nev. 554, 581-82, 119 P.3d 107, 126 (2005) (internal quotation marks omitted).

Conner argues the State failed to present evidentiary support for the flight instruction. However, the State presented evidence at trial that, immediately after the incident, Conner fled the scene, grabbed her children, and stayed with her cousin. She later moved to Pahrump. It took police seven months to locate her. Although Conner argues she left out of fear for her life and the lives of her children, the evidence presented was sufficient for the jury to infer she fled with consciousness of guilt and to evade arrest. Thus, we conclude Conner fails to demonstrate error that is clear under current law from a casual inspection of the record and Conner is not entitled to relief on this claim.

Next, Conner argues the State committed prosecutorial misconduct during closing arguments. Conner did not object to the alleged prosecutorial misconduct; thus, her claims are forfeited. However, this court may review the alleged errors for plain error. *See Jeremias*, 134 Nev. at 50, 412 P.3d at 48.

First, Conner argues the State committed prosecutorial misconduct by calling her a liar. Specifically, the State argued:

You've got two people who come in, swear an oath, swear to testify to tell the truth and you as the jury have to decide who's credible, who's lying, who's telling the truth. In this case, it's not that hard. It's actually pretty easy. And we know it's pretty easy because the Defendant this morning got up here and lied on the stand. And we know she lied because the evidence says so. Okay, don't take my word for it. Look at the evidence and see whether or not she's [indiscernible] her testimony and I submit to you that [indiscernible] prove that she lied up here.

"A prosecutor's use of the words "lying" or "truth" should not automatically mean that prosecutorial misconduct has occurred. But condemning a defendant as a 'liar' should be considered prosecutorial misconduct." *Rowland v. State*, 118 Nev. 31, 40, 39 P.3d 114, 119 (2002). We conclude the prosecutor's statements constituted error plain from a casual inspection of the record; however, Conner fails to demonstrate that her substantial rights were affected. This court does not lightly overturn a criminal conviction "on the basis of a prosecutor's comments standing alone, for the statements or conduct must be viewed in context." *See Rudin v. State*, 120 Nev. 121, 136-37, 86 P.3d 572, 582 (2004). While the State's reference to Conner's statements as lies was improper, here the State went on to point to specific instances where Conner's testimony was contradicted

by other evidence, from which a jury could reasonably infer that certain of Conner's statements were untrue. Therefore, we conclude Conner is not entitled to relief on this claim.

Second, Conner argues the State committed prosecutorial misconduct by vouching for the credibility of a witness. Specifically, Conner argues the prosecutor vouched for the truthfulness of the victim's daughter by stating: "And guess what? Her testimony and her mom's testimony match up perfectly. Now, again, you don't have to take her word for it, yesterday, even though I submit to you that she's telling the truth."

"The prosecution may not vouch for a witness; such vouching occurs when the prosecution places 'the prestige of the government behind the witness' by providing 'personal assurances of [the] witness's veracity.'" *Browning v. State*, 120 Nev. 347, 359, 91 P.3d 39, 48 (2004) (alteration in original) (quoting *United States v. Kerr*, 981 F.2d 1050, 1053 (9th Cir. 1992) (internal quotation marks omitted)). However, the supreme court has recognized that where an "outcome depends on which witnesses are telling the truth, reasonable latitude should be given to the prosecutor to argue the credibility of the witness." *Rowland*, 118 Nev. at 39, 39 P.3d at 119. The record reveals the State provided specific examples to demonstrate the daughter's testimony was credible. Arguments such as this do not amount to improper vouching but the State should avoid words that may suggest personal assurances of a witness's veracity. Thus, we conclude Conner fails to demonstrate error that is clear under current law from a casual inspection of the record. Therefore, we conclude Conner is not entitled to relief on this claim.

Third, Conner argues the State committed prosecutorial misconduct by disparaging her theory of self-defense by calling it a joke.

The State began its rebuttal closing argument by stating: “Self-defense? You’ve got to be kidding me. That’s a joke. And we’re going to talk about why.” In closing arguments, the State may “assert inferences from the evidence and argue conclusions on disputed issues.” *Truesdell v. State*, 129 Nev. 194, 203, 304 P.3d 396, 402 (2013). However, a prosecutor may not “disparage legitimate defense tactics.” *Butler v. State*, 120 Nev. 879, 898, 102 P.3d 71, 84 (2004). Once self-defense has been raised, the State has “the burden of proving absence of justification or excuse for the [actions].” *Hill*, 98 Nev. at 297, 647 P.2d at 371. And a criminal conviction is not easily overturned solely on a prosecutor’s comments. *See Rudin*, 120 Nev. at 136-37, 86 P.3d at 582.

Although the State’s remarks were improper because they disparaged a legitimate defense tactic, we conclude Conner fails to demonstrate the remarks affected her substantial rights. The State only made the comment once and proceeded to properly argue against self-defense based on the evidence presented for the remainder of the argument. Conner fails to demonstrate this comment substantially affected her verdict and as stated above, this court will not easily overturn a conviction solely on a prosecutor’s comments. *See Anderson v. State*, 121 Nev. 511, 516, 118 P.3d 184, 187 (2005) (recognizing that comments constituting misconduct that are “merely passing in nature” are harmless beyond a reasonable doubt); *see also Truesdell*, 129 Nev. at 203-04, 304 P.3d at 402 (concluding that a prosecutor’s statements were harmless where the statements did not substantially affect the verdict). Thus, Conner fails to demonstrate plain error affecting her substantial rights, and we conclude she is not entitled to relief on this claim.

Finally, Conner argues that the cumulative errors at trial entitle her to relief. “The cumulative effect of errors may violate a defendant’s constitutional right to a fair trial even though errors are harmless individually.” *Valdez v. State*, 124 Nev. 1172, 1195, 196 P.3d 465 481 (2008) (internal quotation marks omitted). We consider three factors when reviewing for cumulative error: “(1) whether the issue of guilt is close, (2) the quantity and character of the error, and (3) the gravity of the crime charged.” *Id.* (internal quotation marks omitted). We have considered the relevant factors and conclude that the issue of guilt was not close, the quantity and character of the errors were minor, and the gravity of the charged crimes were not sufficient to warrant reversal. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

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

cc: Hon. Monica Trujillo, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk