IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TOYER FIDEL EDWARDS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82639-COA

ORDER OF AFFIRMANCE

Toyer Fidel Edwards appeals pursuant to NRAP 4(c) from a judgment of conviction entered pursuant to a jury verdict for two counts of battery with use of a deadly weapon resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Carli Lynn Kierny, Judge.

Edwards argues that insufficient evidence supports his convictions. Edwards first claims the evidence was insufficient to prove he committed battery because he was acting in self-defense. He claims the two private security officers he stabbed with a knife, W. Allison and C. Lovato, were the initial aggressors and Edwards feared they would inflict great bodily harm upon him. We review "the evidence in the light most favorable to the prosecution" and determine whether "*any* rational [juror] could have found the essential elements of the crime beyond a reasonable doubt." *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992). The jury weighs evidence and determines the witnesses' credibility; this court will not do so on appeal. *Id.* "Battery means any willful and unlawful use of force or violence upon the person of another." NRS 200.481(1)(a) (internal quotation marks omitted). However, where a battery is committed in justifiable self-

defense, "it negates the unlawfulness element" of the crime. *Barone v. State*, 109 Nev. 778, 780, 858 P.2d 27, 28 (1993).

Allison and Lovato testified at trial, and the jury was shown surveillance video of the incident. During their patrol of private property, the security officers came upon Edwards sleeping in a chair in front of a restaurant and asked him to leave. Edwards told the officers to leave him alone and swore at them. He also threatened to harm Allison and called him a racial slur. The officers commanded Edwards to gather his belongings and leave the property on multiple occasions, but Edwards did not comply. The officers then informed Edwards that because he had refused to leave, they were going to trespass him from the property or, if he failed to comply, effectuate a citizen's arrest.

When Allision began reading Edwards the trespass statute, Edwards reached into his pocket and said, "I've got mines, don't worry." Edwards also said that he was going to "stitch [Allison] up," which Lovato understood to mean that Edwards was going to cut Allison deep enough to require stitches. Lovato saw a knife in Edwards' pocket and pulled out his mace. Lovato informed Allison that Edwards had a knife, and both officers instructed Edwards to remove his hand from his pocket. Lovato specifically testified that he told Edwards on multiple occasions to remove his hand from his pocket or he would mace him. Edwards stood up and took what Lovato described as a fighting stance.

In response to Edwards threatening to kill Allison and believing there was no longer any way to deescalate the situation before it became violent, Lovato maced Edwards. Edwards then pulled the knife from his pocket and moved toward Allison. Allison backed away from Edwards, but after seeing the knife and knowing he was going to be attacked, he tried to

get behind Edwards to detain him. Edwards then stabbed Allison. Lovato then moved in to assist with detaining Edwards and was stabbed as well. Allison was stabbed a second time during the struggle.

Based on this evidence, any rational juror could reasonably find that Edwards did not act in self-defense. *See* NRS 171.126 (defining arrest by private person); NRS 207.200(1) (defining unlawful trespass); *State v. Weddell*, 118 Nev. 206, 209, 43 P.3d 987, 988 (2002) (defining the force a private person may use when arresting another person); *Batson v. State*, 113 Nev. 669, 676, 941 P.2d 478, 483 (1997) (defining the ability to resist arrest).

Second, Edwards claims the evidence was insufficient to prove the victims suffered substantial bodily harm. Substantial bodily harm means (1) "[b]odily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment" or (2) "prolonged physical pain." NRS 0.060. Both officers testified that their stab wounds resulted in scarring, that their wounds limited their mobility, and that both suffered pain or discomfort that lasted approximately one month after the incident for one officer and three months after the incident for the other officer. Based on this evidence, any rational juror could reasonably find that the victims sustained substantial bodily harm. *See Collins v. State*, 125 Nev. 60, 65, 203 P.3d 90, 93 (2009) (providing that "prolonged physical pain" means "some physical suffering that lasts longer than the pain immediately resulting from the wrongful act"). Therefore, we conclude there was sufficient evidence to support the jury's finding that Edwards committed the charged offenses.

Edwards also argues that the district court erred by giving a reasonable doubt jury instruction and an "equal and exact justice"

instruction that minimized the State's burden of proof. Edwards did not clearly object and therefore must demonstrate plain error. *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003). To prevail on plain error review, Edwards 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 his substantial rights. *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018).

The Nevada Supreme Court has found the challenged instructions permissible. *See Bolin v. State*, 114 Nev. 503, 530, 960 P.2d 784, 801 (1998), *abrogated on other grounds by Richmond v. State*, 118 Nev. 924, 934, 59 P.3d 1249, 1256 (2002); *Elvik v. State*, 114 Nev. 883, 897-98, 965 P.2d 281, 290-91 (1998); *Leonard v. State*, 114 Nev. 1196, 1209, 969 P.2d 288, 296 (1998). Edwards thus fails to demonstrate error plain from the record, and we conclude he is not entitled to relief.

Finally, Edwards argues that he is entitled to relief due to cumulative error. However, Edwards failed to demonstrate any error, and therefore, he is not entitled to relief. *See Chaparro v. State*, 137 Nev., Adv. Op. 68, 497 P.3d 1187, 1195 (2021). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc: Hon. Carli Lynn Kierny, District Judge
Law Office of Christopher R. Oram
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk