

SUPREME COURT OF NEVADA

Michael Manzano Roderos v. State

No. 83785 (Nev. Aug. 26, 2022) · No. 83785 · Decided August 26, 2022

SUMMARY

The Nevada Supreme Court affirmed Michael Manzano Roderos's convictions for child abuse or endangerment, battery constituting domestic violence, and coercion constituting domestic violence. The court held that the district court properly sustained a hearsay objection, that sufficient evidence supported the convictions, and that no cumulative error warranted reversal. The court also rejected unpreserved claims of prosecutorial vouching and improper character evidence because Roderos failed to establish plain error.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Hardesty; Stiglich; Herndon
JURISDICTION	Nevada
DECIDED	August 26, 2022
DOCKET	83785
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a judgment of conviction entered after a jury found Michael Roderos guilty of child abuse or endangerment, battery constituting domestic violence, and coercion constituting domestic violence.
STANDARD OF REVIEW	The court reviewed the evidentiary ruling for abuse of discretion, sufficiency of the evidence under the substantial-evidence standard while viewing the evidence in the light most favorable to the prosecution, and unpreserved claims for plain error affecting substantial rights. Cumulative-error claims were reviewed under the factors stated in Valdez v. State.
PRECEDENTIAL VALUE	Published Nevada Supreme Court order; precedential status is identified as published in the supplied metadata.
PARTIES	Michael Manzano Roderos v. State of Nevada

TOPICS

hearsay

impeachment

evidence

standard of review

appellate procedure

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court violated Roderos's due process right to present an adequate defense by sustaining a hearsay objection to proposed impeachment testimony concerning Noelani's statement to police.
2. Whether sufficient evidence supported Roderos's convictions for child abuse or endangerment, battery constituting domestic violence, and coercion constituting domestic violence.
3. Whether cumulative error required reversal.
4. Whether unpreserved claims concerning alleged prosecutorial vouching and admission of testimony that Roderos was fired for domestic violence constituted plain error.

HOLDINGS

1. The district court did not abuse its discretion by sustaining the State's hearsay objection. A defendant's due process right to present a defense remains subject to otherwise applicable rules of evidence, and Roderos could have impeached Noelani by questioning her directly about her statement to police but failed to do so.
2. Sufficient evidence supported the convictions because the testimony of Samantha and Noelani, together with photographic and other evidence of Noelani's injuries, permitted a reasonable jury to find Roderos guilty beyond a reasonable doubt.
3. Cumulative-error relief was unwarranted because Roderos failed to demonstrate any error to cumulate.
4. Roderos failed to establish plain error affecting his substantial rights or resulting in a miscarriage of justice on his unpreserved claims that the State vouched for Samantha and that testimony about his firing constituted improper character evidence.

KEY QUOTATIONS

“Although a criminal defendant has a due process right to introduce into evidence any testimony or documentation which would tend to prove the defendant's theory of the case, that right is subject to the rules of evidence” (2)

“We conclude that there was sufficient evidence for a reasonable jury to find Michael guilty of the crimes charged beyond a reasonable doubt.” (3)

“However, Michael has not demonstrated any error, so there is nothing to cumulate.” (4)

FACTUAL BACKGROUND

Roderos became involved in an altercation with his wife, Samantha, and his sixteen-year-old daughter, Noelani, after the family returned from an out-of-town trip and found him drinking in the garage. Samantha testified that Roderos grabbed and twisted her hands and later blocked the front door while she attempted to leave with their son. Noelani testified that Roderos followed her upstairs, argued with her, and backhanded her; the State also introduced photographic and other evidence of Noelani's injuries.

PROCEDURAL HISTORY

A jury convicted Roderos on all three charged offenses in the Eighth Judicial District Court, Clark County. The district court sentenced him to 56 to 144 months. Roderos appealed, challenging an evidentiary ruling, the sufficiency of the evidence, and cumulative error; the Nevada Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018)
- *United States v. Olano*, 507 U.S. 725, 731 (1993)
- *Rose v. State*, 123 Nev. 194, 205 n.18, 163 P.3d 408, 416 n.18 (2007)
- *United States v. Scheffer*, 523 U.S. 303, 308 (1998)
- *Rhymes v. State*, 121 Nev. 17, 21-22, 107 P.3d 1278, 1281 (2005)
- *Walker v. State*, 91 Nev. 724, 726, 542 P.2d 438, 439 (1975)
- *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992)
- *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)
- *Valdez v. State*, 124 Nev. 1172, 1195, 196 P.3d 465, 481 (2008)
- *Barlow v. State*, 138 Nev., Adv. Op. 25, 507 P.3d 1185, 1199 (2022)

OPINION

Roderos (Michael) v. State

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL MANZANO RODEROS, No. 83785

Appellant, vs.

THE STATE OF NEVADA,

Respondent. AUG 2 b 2022

A. BROWN

UPREME COURT

ORDER OF AFFIRMANCE

CLERK

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of child abuse or endangerment, battery constituting domestic violence, and coercion constituting domestic violence. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge. Appellant Michael Roderos was involved in an altercation with his wife Samantha and his daughter Noelani, who was 16 years old at the time. Both Samantha and Noelani testified at trial that a conflict began after they arrived home from an out-of-town trip and found Michael drinking in the garage. Samantha testified that the argument escalated when Michael grabbed and twisted her hands. Thereafter, Samantha decided it was best if she and their minor son, who had been at home with Michael while Samantha and Noelani were out of town, left the house, so Samantha went upstairs to pack a bag. Noelani also went upstairs to her bedroom to call a friend to come pick her up. Noelani testified that Michael followed her, argued with her, and then backhanded her. Samantha testified that when she tried to leave the house with their son, Michael blocked the front door and attempted to take her suitcase away from her. Noelani testified that her friend eventually arrived with her father, and,

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7-- -1-2,6cil 05 after she got in the car, the father drove around the block and called the police. Michael was arrested the next day at his place of work, where Samantha also worked. A jury found Michael guilty on all three counts, and the district court sentenced him to 56-144 months. Michael appeals, arguing that (1) the district court erred in sustaining the State's hearsay objection after his counsel tried to impeach Noelani's testimony, which limited his due process right to assert an adequate defense; (2) there was insufficient evidence to support his conviction; and (3) cumulative error warrant reversal.' During trial, Michael tried to elicit testimony from a police officer to impeach Noelani's testimony regarding which hand Michael used when he backhanded her. The State objected on hearsay grounds, and the district court sustained the objection. Michael does not argue that a hearsay exception applies or that the district court's ruling on the State's objection was incorrect. See NRS 51.035 (defining hearsay). Instead, Michael maintains that the district court should have allowed the line of questioning and admitted the police report containing Noelani's statement 'Michael raises two additional arguments on appeal: (1) the State improperly vouched for Samantha by telling her that she was "doing great" during direct examination, and (2) the district court erred in admitting Samantha's testimony that Michael was fired from his job because their employer did not tolerate domestic violence, because that testimony constituted improper character evidence. Because Michael failed to preserve these issues for appellate review, he has the affirmative burden to demonstrate that the errors were plain or clear and that they affected his substantial rights by showing actual prejudice or a miscarriage of justice, which he has failed to do. *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018) (citing *United States v. Olano*, 507

U.S. 725, 731 (1993)); see NRS 178.602. We perceive no plain error.

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anyway because his due process right to present an adequate defense is "a counterpoint to the rules of evidence." We disagree. "Although a criminal defendant has a due process right to introduce into evidence any testimony or documentation which would tend to prove the defendant's theory of the case, that right is subject to the rules of evidence" *Rose v. State*, 123 Nev. 194, 205 n.18, 163 P.3d 408, 416 n.18 (2007) (internal quotation marks and citation omitted). "Such rules do not abridge an accused's right to present a defense so long as they are not arbitrary or disproportionate to the purposes they are designed to serve." *United States v. Scheffer*, 523 U.S. 303, 308 (1998) (internal quotation marks omitted). Here, Michael had the opportunity to impeach Noelani in accordance with evidence rules by questioning Noelani herself regarding her statement to the police and which hand Michael used when he backhanded her, but he failed to do so. We therefore conclude that the district court did not abuse its discretion by sustaining the State's objection. See *Rhymes v. State*, 121 Nev. 17, 21-22, 107 P.3d 1278, 1281 (2005) (providing that trial courts have broad discretion to admit or exclude evidence). Michael next broadly argues that there was insufficient evidence to support his conviction with respect to each crime charged. We disagree. Both Samantha and Noelani testified as to Michael's actions on the night in question, and the State admitted photographic and other evidence of the injuries sustained by Noelani. See *Walker v. State*, 91 Nev. 724, 726, 542 P.2d 438, 439 (1975) ("[I]t is the function of the jury, not the appellate court, to weigh the evidence and pass upon the credibility of the witness."). We conclude that there was sufficient evidence for a reasonable jury to find Michael guilty of the crimes charged beyond a reasonable doubt.

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See *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992) (stating that this court will not disturb a verdict support by substantial evidence if, "after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt") (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)).

Finally, Michael argues that he is entitled to relief due to cumulative error. See *Valdez v. State*, 124 Nev. 1172, 1195, 196 P.3d 465, 481 (2008) (providing the relevant factors to consider for a claim

of cumulative error). However, Michael has not demonstrated any error, so there is nothing to cumulate. See *Barlow v. State*, 138 Nev., Adv. Op. 25, 507 P.3d 1185, 1199 (2022) (concluding that errors did not cumulate as there was only one error). Accordingly, we ORDER the judgment of conviction AFFIRMED. Act. Hardesty ,J Stiglich Herndon cc: Hon. Mary Kay Holthus, District Judge Leslie A. Park Attorney General/Carson City Clark County District Attorney Eighth District Court Clerk

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