

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2022 ND 78

State of North Dakota,

Plaintiff and Appellee

v.

Maxwell Dean Hultberg,

Defendant and Appellant

No. 20210301

Appeal from the District Court of Morton County, South Central Judicial District, the Honorable Cynthia M. Feland, Judge.

AFFIRMED.

Per Curiam.

Allen M. Kopyy, State's Attorney, Mandan, ND, for plaintiff and appellee.

Benjamin C. Pulkrabek, Mandan, ND, for defendant and appellant.

State v. Hultberg
No. 20210301

Per Curiam.

[¶1] Maxwell Hultberg appealed from a criminal judgment entered after a jury found him guilty of indecent exposure. Hultberg argues the district court erred by giving the jury a general verdict form because it allowed the jury to find him guilty without agreeing on the method of committing the offense.

[¶2] Hultberg did not preserve the issue for appeal and the alleged error will only be reviewed for obvious error. *See State v. Rodriguez*, 2020 ND 261, ¶ 15, 952 N.W.2d 233 (holding alleged error with the verdict form was not preserved for appeal and would only be reviewed for obvious error when the defendant failed to object to the jury instructions and did not request a special verdict form). To establish an obvious error, the appellant must show: “(1) error, (2) that is plain, and (3) that affects substantial rights.” *State v. Evanson*, 2021 ND 4, ¶ 11, 953 N.W.2d 607 (citing *State v. Doppler*, 2013 ND 54, ¶ 14, 828 N.W.2d 502). The jury was instructed that they must unanimously agree as to the method of commission of the offense. We presume the jury followed the district court’s instructions. *See Steinbach v. State*, 2015 ND 34, ¶ 35, 859 N.W.2d 1 (stating the jury is presumed to follow a court’s instructions).

[¶3] We conclude Hultberg failed to establish that an error occurred. The jury instructions informed the jury that they had to unanimously agree on at least one method of commission of the offense and the jury was required to find Hultberg not guilty if the jurors did not all agree on one method. *State v. Gaddie*, 2022 ND 44, ¶¶ 10-11. When the verdict form is read with the instructions, the general verdict form did not allow the jury to find Hultberg guilty of indecent exposure without unanimously agreeing on the method for committing the offense. We summarily affirm the criminal judgment under N.D.R.App.P. 35.1(a)(7).

[¶4] Jon J. Jensen, C.J.
Gerald W. VandeWalle
Daniel J. Crothers

Lisa Fair McEvers
Jerod E. Tufte