

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAURICE QUINTERO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43594

FILED

JUN 13 2005

ORDER OF AFFIRMANCE

J. Schmitt
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a controlled substance. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge. The district court sentenced appellant Maurice Quintero to serve a prison term of 12 to 30 months.


Quintero contends that the district court erred at sentencing by allowing the State "to unilaterally withdraw from the plea agreement" and breach its promise to recommend probation by arguing that a prison term be imposed. Quintero acknowledges that his plea agreement contained a standardized clause, known as the FTA clause, that released the State from its promise to recommend probation if Quintero failed to appear at sentencing. While Quintero concedes that he failed to appear for his first sentencing date, he argues that the State should have nonetheless been required to recommend probation because the FTA clause is unenforceable under Nevada law. Specifically, Quintero argues that the FTA clause is invalid because: (1) it does not substantially comply with the standardized guilty plea form agreement set forth in NRS 174.063; and (2) it allows the State the unilateral right to withdraw from

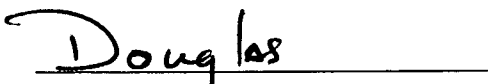
the plea agreement in violation of this court's holdings in Gamble v. State,¹ and Villalpando v. State.²

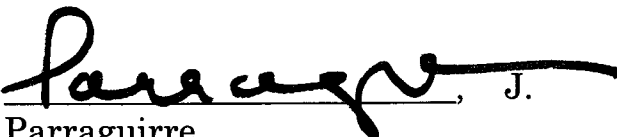
Recently, in Sparks v. State,³ this court considered and rejected the identical arguments raised by Quintero. In so doing, this court concluded that the standardized FTA clause is legally enforceable and does not violate Nevada law.⁴ Accordingly, we conclude that the district court did not err at sentencing by allowing the State to argue for a prison term pursuant to the FTA clause.

Having considered Quintero's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

 J.
Maupin

 J.
Douglas

 J.
Parraguirre

¹95 Nev. 904, 604 P.2d 335 (1979).

²107 Nev. 465, 814 P.2d 78 (1991).

³121 Nev. ___, ___ P.3d ___ (Adv. Op. No. 12, April 28, 2005).

⁴Id.

cc: Hon. Joseph T. Bonaventure, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk