

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAWN RAYNARD WOODS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46982

**FILED**

SEP 12 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's post-conviction motion for specific performance of the guilty plea. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On May 22, 2002, the district court convicted appellant, pursuant to a guilty plea, of grand larceny. The district court sentenced appellant to serve a term of one to three years in the Nevada State Prison to be served consecutively with the sentence imposed in district court case number C174254. Appellant did not file a direct appeal.

On February 21, 2006, appellant filed a proper person post-conviction motion for specific performance of the guilty plea in the district court. The State opposed the motion. On March 13, 2006, the district court denied appellant's motion. This appeal followed.

In his petition, appellant claimed that the district court breached the plea agreement by imposing his sentence to run consecutively to, rather than concurrently with, the sentence in district court case number C174254. We conclude that the district court did not err in denying appellant's motion.

Appellant was specifically advised before waiving his preliminary hearing that, even if the State recommended a concurrent sentence, there was no guarantee that the sentence would be imposed to run concurrently and the district court could decide to run the sentence consecutively. Further, in the guilty plea agreement, appellant was advised that the sentencing judge had the discretion to order appellant's sentence to be served concurrently or consecutively. Additionally, appellant acknowledged in the plea agreement that "the Court is not obligated to accept the recommendation" of the State or his attorney. Although the State recommended that appellant's sentence run concurrently with the sentence imposed in district court case number C174254, after reviewing appellant's prior history, the district court exercised its discretion and imposed the sentence to run consecutively. Because the district court was not bound by the State's recommendation, appellant's plea agreement was not breached by the imposition of consecutive sentences.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>1</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Becker, J.  
Becker

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

cc: Hon. Donald M. Mosley, District Judge  
Shawn Raynard Woods  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>1</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).