

IN THE SUPREME COURT OF THE STATE OF NEVADA

THAMRONG E. HILL A/K/A
THAMRONG EARL HILL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47057

FILED

SEP 12 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from judgment of conviction, entered pursuant to a guilty plea, of one count of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge. The district court sentenced appellant Thamrong E. Hill to serve two consecutive prison terms of 2 to 15 years.

Hill's sole contention is that the State breached the plea agreement by arguing for the maximum sentence at the sentencing hearing. We disagree.

In Van Buskirk v. State,¹ we explained that when the State enters a plea agreement, it "is held to 'the most meticulous standards of both promise and performance'" in fulfillment of both the terms and the

¹102 Nev. 241, 243, 720 P.2d 1215, 1216 (1986) (quoting Kluttz v. Warden, 99 Nev. 681, 683-84, 669 P.2d 244, 245 (1983)).

spirit of the plea bargain, and that due process requires that the bargain be kept when the guilty plea is entered. We have held that "[t]he violation of either the terms or the spirit of the agreement requires reversal."² When a prosecutor expressly recommends only the sentence agreed upon, but by his comments implicitly seeks a higher penalty, the plea agreement is breached in spirit.³


Here, Hill agreed to plead guilty to robbery with the use of a deadly weapon; the parties agreed to stipulate to the minimum sentence; and Hill acknowledged that the minimum prison term for robbery was 2 years, the maximum term was 15 years, and he would be subject to an equal and consecutive term for the use of a deadly weapon. During sentencing, the district court noted the stipulation and asked the State, "What was it a 2 to 15? Is that what we're looking at?" The State responded, "2 to 15, plus an equal and consecutive 2 to 15 for the enhancement." The State further stated that the presentence investigation report did not include a sentence for the deadly weapon enhancement. We conclude from our review of the sentencing transcript that the State did not breach the terms or the spirit of the plea agreement.


²Sullivan v. State, 115 Nev. 383, 387, 990 P.2d 1258, 1260 (1999).

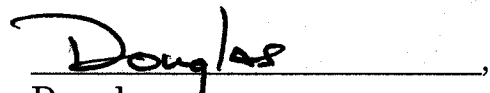
³Wolf v. State, 106 Nev. 426, 427-28, 794 P.2d 721, 722-23 (1990); Kluttz, 99 Nev. at 683-84, 669 P.2d at 245-46.

Having considered Hill's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Nancy M. Saitta, District Judge
Agwara & Associates
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk