

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY SANDERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52586

FILED

JAN 08 2010

TRACIE K. LINDEMAN
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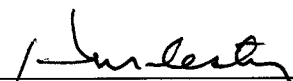
ORDER OF AFFIRMANCE

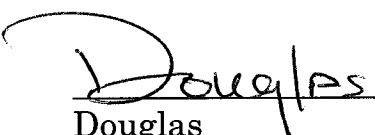
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of sexually motivated coercion. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

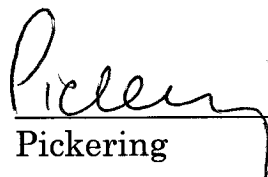
Appellant argues that the district court erred in denying his motion to strike the psychosexual evaluation prepared by John S. Pacult because it violated NRS 176.139 and NRS 176A.110 and that, as a result of the district court's error, the State was allowed to breach the plea agreement. We review the district court's decision de novo as it involves statutory interpretation. See Butler v. State, 120 Nev. 879, 892, 102 P.3d 71, 81 (2004). We are not convinced that NRS 176.139 and NRS 176A.110 require an evaluator to make a risk assessment based on diagnostic tools or psychological testing to the exclusion of any other considerations that may be relevant to an accepted standard of assessment. See, e.g., NRS 176.139(3) (in addition to generally accepted diagnostic tools for evaluating sex offenders, evaluation must include "comprehensive clinical interview with the defendant" and review of all investigative reports and victim statements); NRS 176.139(4) (evaluation may include review of records related to defendant's prior criminal offenses, prior evaluations

and treatment, and school records; interviews of persons who may have relevant information; psychological testing; polygraph examinations; and arousal assessment). And like the district court, we are not convinced that the considerations included in Mr. Pacult's evaluation are not relevant to an accepted standard of assessment. The district court therefore did not err in denying the motion to strike the evaluation. Because the evaluation found appellant to be a high risk to reoffend, the terms of the plea agreement allowed the State to argue for an appropriate prison term and therefore the State did not breach the plea agreement.

Having concluded that appellant's arguments lack merit, we
ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. James M. Bixler, District Judge
Draskovich & Oronoz, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk