

IN THE SUPREME COURT OF THE STATE OF NEVADA

DIRK PATRICK KLINKE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56046

FILED

NOV 05 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of statutory sexual seduction and three counts of possession of a visual presentation depicting the sexual conduct of a person under 16 years of age. First Judicial District Court, Carson City; James E. Wilson, Judge.

First, appellant Dirk Patrick Klinke contends that two of the possession counts he pleaded to were impermissibly redundant and therefore he could not be convicted on both. Klinke waived this issue when he chose to plead guilty to those charges in exchange for the State's dismissal of numerous similar charges based on other pictures. See NRS 174.035(3); Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (the entry of a guilty plea generally waives any right to appeal from events occurring prior to the entry of the plea).

Second, Klinke contends that the State breached the plea agreement at sentencing by introducing photographs related to charges dismissed pursuant to negotiations. We disagree. The State is held "to the most meticulous standards of both promise and performance in fulfillment of its part of a plea bargain" and must avoid violating either the terms or the spirit of the agreement. Sullivan v. State, 115 Nev. 383,

387, 990 P.2d 1258, 1260 (1999) (internal quotation marks omitted). Here, Klinke fails to identify any aspect of the plea agreement breached by the State. The introduction of the challenged photographs was expressly permitted by the plea agreement and the State followed the agreement by recommending that counts II and III be run concurrently. Therefore, we conclude that Klinke has failed to demonstrate that the State breached the plea agreement. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. James E. Wilson, District Judge
Attorney General/Carson City
Carson City District Attorney
State Public Defender/Carson City
Carson City Clerk