

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIRK DOUGLAS WINGO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56179

**FILED**

**JAN 13 2011**

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 second-degree murder with the use of a deadly weapon. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.


Appellant Kirk Wingo claims that the State violated the plea agreement by implicitly arguing for a life sentence. As part of the guilty plea agreement, the State promised to recommend a sentence of 10 to 25 years but reserved the right to argue regarding the deadly weapon enhancement and present facts or witnesses at sentencing. The evidence offered by the State—victim impact evidence and evidence refuting Wingo's assertion that the victim was not killed with an inherently dangerous ligature but during rough sexual activity—did not violate this agreement. In light of the State's explicit reservation in the guilty plea agreement and Wingo's failure to object below, we conclude that he fails to show plain error. See Mendoza-Lobos v. State, 125 Nev. \_\_\_, \_\_\_, 218 P.3d 501, 507-08 (2009); Stubbs v. State, 114 Nev. 1412, 1414-15, 972 P.2d 843, 845 (1998).

Wingo also claims that the district court failed to make the findings required by NRS 193.165(1) on the record before sentencing him

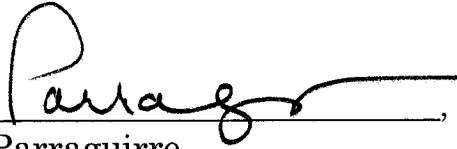
for the deadly weapon enhancement. Although it did not use rote language to do so, the district court addressed the factors listed in the statute before pronouncing Wingo's sentence. Therefore, Wingo fails to show plain error. See Mendoza-Lobos, 125 Nev. at \_\_\_, 218 P.3d at 507-08.

Having considered Wingo's claims and concluded that no relief is warranted, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Brent T. Adams, District Judge  
Scott W. Edwards  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk