

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERALD REY COSTA, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59201

JERALD REY COSTA, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59202

FILED

MAY 09 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

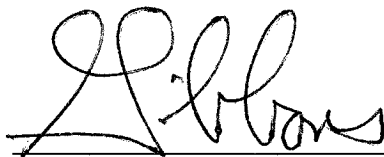
ORDER OF AFFIRMANCE

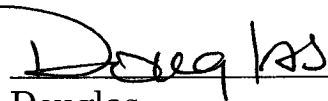
These are consolidated appeals from two judgments of conviction, pursuant to guilty pleas, of murder in the first degree and battery by a prisoner. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant Jerald Rey Costa, Jr., contends that the State breached his plea agreements because the prosecutor went beyond simply asking the district court to follow the negotiations. We disagree. The State specifically reserved the right to present arguments in support of its recommendation of life with the possibility of parole for the first-degree murder conviction and a concurrent sentence for the battery by a prisoner conviction. Nothing in the prosecutor's comments implicitly or explicitly sought a harsher sentence than the State agreed to recommend. Therefore, we conclude that the prosecutor did not breach the terms or spirit of the plea agreements, see Sullivan v. State, 115 Nev. 383, 389-90,

990 P.2d 1258, 1261-62 (1999), and we

ORDER the judgments of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Janet J. Berry, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk