

IN THE SUPREME COURT OF THE STATE OF NEVADA

MURRAY JONES, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 35609

**FILED**

AUG 16 2000

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of possession of a controlled substance. The district court sentenced appellant to serve 12 to 36 months in prison.

Appellant's sole contention is that the prosecutor breached the plea agreement. We conclude that this contention lacks merit.

When the State enters a plea agreement, it is held to "the most meticulous standards of both promise and performance" in fulfillment of the terms of and the spirit of the plea bargain. *Van Buskirk v. State*, 102 Nev. 241, 243, 720 P.2d 1215, 1216 (1986) (quoting *Kluttz v. Warden*, 99 Nev. 681, 683-84, 669 P.2d 244, 245 (1983)). Due process requires that the bargain be kept when the guilty plea is entered. Id.

In exchange for appellant's guilty plea, the State agreed to recommend a sentence of no more than 12 to 30 months in prison. At sentencing, counsel for appellant argued against the Division of Parole and Probation recommendation. Counsel argued that "the negotiations of the parties for stipulated sentence of 12 to 30 months is more appropriate." After further argument, counsel for appellant concluded:

"Given all those factors, Your Honor, I think what we negotiated is fair. This is a person who will be on lifetime supervision,<sup>[1]</sup> and I am hopeful that the Division of Parole and Probation will assist him when he does finally get out of the system into a halfway house where he can try to integrate back into society." The court then asked the prosecutor for any comments and the prosecutor responded, "Nothing to add, Your Honor. Thank you." Appellant did not object to the prosecutor's comment or argue below that the prosecutor failed to comply with the plea agreement.

We conclude that the prosecutor did not breach the terms or the spirit of the plea agreement. The prosecutor did not recommend a sentence of more than 12 to 30 months in prison. Moreover, the context of the prosecutor's comment that he had nothing to add, coming immediately after defense counsel's argument in favor of the recommended sentence, does not implicitly repudiate the agreement. Additionally, we note that the prosecutor was not required to argue in favor of the agreement. See Sullivan v. State, 115 Nev. 383, 990 P.2d 1258 (1999). We therefore conclude that the State did not breach the plea agreement and we

ORDER this appeal dismissed.

  
Maupin J.

  
Shearing J.

  
Becker J.

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<sup>1</sup>Appellant is subject to lifetime supervision for a prior sexual assault conviction.

cc: Hon. Connie J. Steinheimer, District Judge  
Attorney General  
Washoe County District Attorney  
Washoe County Public Defender  
Washoe County Clerk