

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERICK GUSTAVO PINEDA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61965

**FILED**

APR 09 2013

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

ORDER OF AFFIRMANCE

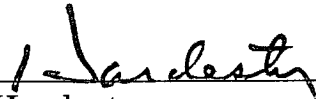
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of conspiracy to commit battery with substantial bodily harm. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.


Appellant Erick Gustavo Pineda claims that the district court abused its discretion at sentencing by imposing a six-month jail term rather than placing him on probation. Respondent did not file a fast track response. Although this court can treat the failure to file a response as a confession of error, see NRAP 3C(n); NRAP 31(d), we decline to do so because Pineda's claim clearly lacks merit.

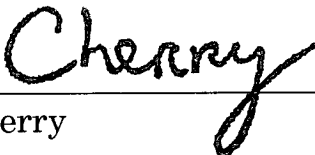
Pineda bit and nearly severed the victim's index finger. At sentencing, the district court viewed images of the damage to the victim's finger. The victim requested the judge to impose the maximum term and the State argued that Pineda was not amenable to probation because he lived in Arizona and probation was not possible under the interstate compact rules. We conclude that the district court did not abuse its discretion by imposing a jail term rather than placing Pineda on

probation, see NRS 176A.100(1)(c); NRS 193.140; NRS 199.480(3)(a); Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987), and we

ORDER the judgment of conviction AFFIRMED.<sup>1</sup>

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

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

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Michael Montero, District Judge  
Humboldt County Public Defender  
Attorney General/Carson City  
Humboldt County District Attorney  
Humboldt County Clerk

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<sup>1</sup>Pineda's fast track statement does not comply with NRAP 3C(h)(1) and NRAP 32(a)(4) because it does not have margins of at least one inch on all four sides. We caution appellant's counsel, Matt Stermitz, that future failure to comply with the applicable rules when filing briefs in this court may result in the imposition of sanctions. See NRAP 3C(n).