

IN THE SUPREME COURT OF THE STATE OF NEVADA

HOMAR GALARZA LUNA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61990

**FILED**

SEP 18 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY Angela  
DEPUTY CLERK


*ORDER OF AFFIRMANCE*

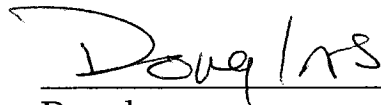
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of battery with the intent to commit sexual assault. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.


Appellant Homar Galarza Luna's sole contention on appeal is that the district court erred in sentencing him to a term of life with the possibility of parole after ten years. He asserts that the district court was limited to sentencing him to the term of life with the possibility of parole after two years as specified by statute. We discern no error. *See State v. Catanio*, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004) ("Statutory interpretation is a question of law subject to de novo review."). NRS 200.400(4)(b) provides a range in which the judge can sentence a defendant. The range is from a minimum of two years to a maximum life sentence with the possibility of parole. NRS 200.400(4)(b). Furthermore, NRS 176.033(1)(b) provides that "[i]f sentencing a person who has been found guilty of a felony, [the court shall] sentence the person to a minimum term and a maximum term of imprisonment, unless a definite term of imprisonment is required by statute." Thus, both the statutes are

clear that a judge can sentence a defendant within the range prescribed in NRS 200.400(4)(b). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

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

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