

IN THE SUPREME COURT OF THE STATE OF NEVADA

DALE ALLEN FISHER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64850

FILED

SEP 19 2014

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of attempted lewdness with a child under the age of 14. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

On appeal, Dale Fisher contends that NRS 176A.110(1)(a) and NRS 176.139 violate the Separation of Powers Clause in Article 3, Section 1 of the Nevada Constitution. However, the written plea agreement entered into by Fisher contained the following waiver of rights:

By entering my plea of guilty, I understand that I am waiving and forever giving up the following rights and privileges:

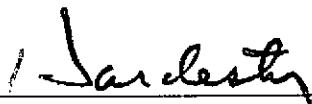
...

6. The right to appeal the conviction with the assistance of an attorney, either appointed or retained, unless specifically reserved in writing and agreed upon as provided in NRS 174.035(3). I understand this means I am unconditionally waiving my right to a direct appeal of this conviction, including any challenge based upon reasonable constitutional, jurisdiction or other grounds that challenge the legality of the proceedings as stated in NRS 177.015(4).

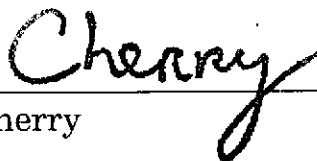
This court has held that “[a] knowing and voluntary waiver of the right to appeal made pursuant to a plea bargain is valid and enforceable.”

Cruzado v. State, 110 Nev. 745, 747, 879 P.2d 1195, 1195 (1994), *overruled on other grounds by Lee v. State*, 115 Nev. 207, 985 P.2d 164 (1999). Fisher argues that he merely waived the right to counsel in preparation of a direct appeal or that the language is ambiguous. We disagree, as the language of the agreement clearly states that Fisher unconditionally waived his right to a direct appeal of the conviction. Therefore, we conclude Fisher's claims are waived, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Stefany Miley, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk