

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAUN JONES A/K/A SHAWN  
DEVAUGHN JONES,  
Appellants,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65326

**FILED**

**OCT 15 2014**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of child abuse, neglect, or endangerment. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant Shaun Jones contends that the State breached the terms of the guilty plea agreement by presenting records to the district court without providing the same documents to him so that he might investigate and argue against them. Because Jones failed to make a contemporaneous objection at the time of sentencing, we review for plain error. *Mendoza-Lobos v. State*, 125 Nev. 634, 644, 218 P.3d 501, 507 (2009); *Bishop v. Warden*, 94 Nev. 410, 412, 581 P.2d 4, 5 (1978).

In determining whether the State breached the terms of a guilty plea agreement, the State is "held to the most meticulous standards of both promise and performance," *Kluttz v. Warden*, 99 Nev. 681, 683, 669 P.2d 244, 245 (1983), and "[t]he violation of either the terms or the spirit of the agreement requires reversal," *Sullivan v. State*, 115 Nev. 383, 387, 990 P.2d 1258, 1260 (1999). In this case, the guilty plea agreement provided that the State would not oppose probation if Jones was determined to be a low to moderate risk to reoffend but the State would

retain the right to argue the terms and conditions of probation, including whether Jones would be reunited with or have contact with the victim. Jones was evaluated as a moderate risk to reoffend.

At sentencing, the State presented the district court with records from Child Protective Services (CPS) demonstrating that Jones violated the no-contact provision of the guilty plea agreement and assaulted the same victim in this case, an incident that was mentioned in the presentence investigative report (PSI). As the State was unable to determine whether CPS initiated criminal charges against Jones, thereby relieving the State of its negotiated obligations, the State did not oppose probation but addressed the appropriate terms and conditions that should be imposed. We conclude that the State did not breach the terms of the agreement because the State did not agree to stand silent or make no recommendation, therefore the State retained the "right to argue or present facts in favor of the sentence recommendation." *Id.* at 389, 990 P.2d at 1261. Further, Jones fails to demonstrate that his substantial rights were affected as the district court noted that the records were presented as the district court judge took the bench but were not reviewed or considered. *See Mendoza-Lobos*, 125 Nev. at 644, 218 P.3d at 507. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Pickering, J.  
Pickering

Parraguirre, J.  
Parraguirre

Saitta, J.  
Saitta

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