IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAMONT WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66620

FILED
AUG 04 2015
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal under NRAP 4(c) from a judgment of conviction entered pursuant to a guilty plea of sale of a controlled substance. First Judicial District Court, Carson City; James Todd Russell, Judge.

First, appellant Lamont Williams claims his guilty plea was not knowing, intelligent, and voluntary because it was entered upon the incorrect advice of counsel. Challenges to the validity of a guilty plea must be raised in the district court in the first instance, *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986), unless the error clearly appears from the record, *Smith v. State*, 110 Nev. 1009, 1010 n.1, 879 P.2d 60, 61 n.1 (1994). Because the record does not indicate Williams challenged the validity of his guilty plea in the district court, and he has not demonstrated the alleged error clearly appears on the record, we decline to review this claim.

Second, Williams claims the State breached the guilty plea agreement by violating its promise to stand silent at sentencing.[1] "When the State enters into a plea agreement, it is held to the most meticulous standards of both promise and performance with respect to both the terms and the spirit of the plea bargain." *Sparks v. State*, 121 Nev. 107, 110, 110 P.3d 486, 487 (2005) (internal quotation marks omitted).

During sentencing, the prosecutor informed the district court "the agreement was that the State would concur with the recommendations of Parole and Probation and stand silent with those recommendations" but if Williams committed a new crime prior to sentencing, then the prosecutor would be free to argue for any lawful sentence. The court advised the prosecutor to stand silent, but the prosecutor went on to say Williams had been arrested for operating a vehicle without a driver's license and was in custody for a bail violation. Williams did not object to the prosecutor's comments.

As provided in the plea agreement, Williams' arrest constituted a breach that released the State from its promise to stand silent. Given these circumstances, we conclude Williams has not demonstrated plain error. *See Sullivan v. State*, 115 Nev. 383, 387 n.3, 990 P.2d 1258, 1260 n.3 (1999) (observing that unpreserved breach-of-plea allegations may be reviewed for plain error and failure to object "may be considered as evidence of the defendant's understanding of the terms of a plea agreement"); *see also Puckett v. United States*, 556 U.S. 129 (2009)

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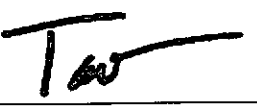
[1]We decline to review Williams' claim that defense counsel was ineffective in this regard. *See Archanian v. State*, 122 Nev. 1019, 1036, 145 P.3d 1008, 1020-21 (2006).

(holding plain-error review applies when defendant fails to object to alleged breach of a plea agreement).

Having concluded Williams is not entitled to relief, we ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Gibbons



_____, J.
Tao

_____, J.
Silver

cc: Hon. James Todd Russell, District Judge
Novi and Wilkin
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk