

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KASHEEM PETERSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68650

FILED

JUL 27 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to an *Alford*¹ plea, of attempted sexual assault and two counts of sexually motivated coercion. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Appellant Kasheem Peterson argues the State breached the plea agreement by filing an inflammatory sentencing memorandum, which he asserts implicitly urged the district court to sentence Peterson to serve a lengthier sentence than what the parties agreed upon.

“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). “A plea agreement is construed according to what the defendant reasonably understood when he or she entered the plea.” *Sullivan v. State*, 115 Nev. 383, 387, 990 P.2d 1258, 1260 (1999). Our review of the record reveals the State complied with both the terms and the spirit of the plea agreement.

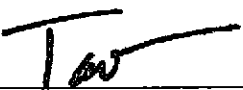
¹*North Carolina v. Alford*, 400 U.S. 25 (1970).

In the written plea agreement, the parties stipulated Peterson would serve no more than 48 to 150 months in prison, the terms would be served concurrently, but each party could argue the appropriate sentence within those bounds. The parties agreed that Peterson could withdraw his plea if the district court decided to impose a sentence greater than the maximum penalties the parties agreed upon.

The parties each filed a sentencing memorandum and argued the appropriate sentence at the sentencing hearing. The State explicitly requested, both in its sentencing memorandum and at the sentencing hearing, the district court sentence Peterson to the maximum sentence permitted by the plea agreement. A review of the record reveals that at no time did the State argue or imply that the district court should impose a sentence greater than what the parties had stipulated to.² Therefore, we conclude the State did not breach the plea agreement and this claim lacks merit. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

²We also note when the district court announced its intention to impose a sentence greater than what Peterson had stipulated to in the plea agreement, the court gave Peterson the opportunity to withdraw his plea at that time. Peterson discussed the matter with his attorney and chose not to withdraw his plea. The district court then proceeded to sentence Peterson to consecutive terms totaling 6 to 17 years in prison.

cc: Hon. William D. Kephart, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk