

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARIO S. CORTEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 72757

**FILED**

MAR 14 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*


Mario S. Cortez appeals from a judgment of conviction, entered pursuant to a guilty plea, of two counts of driving under the influence of alcohol, a prohibited substance, and/or a combination of alcohol and a controlled substance, resulting in the death of another. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.


Cortez claims the State breached the plea agreement by providing argument regarding his failure to remain at the scene of the crash. Cortez argues those counts were dismissed and the State's repeated reference to them were not made in support of the guilty plea agreement.

Cortez fails to demonstrate the State breached the plea agreement. At sentencing, the parties were free to argue and the State specifically reserved the right to present arguments, facts, and/or witnesses in support of the plea agreement. Further, charges that were dismissed were permitted to be considered at sentencing. The State informed the district court Cortez fled the scene and had his keys with him, which was necessary to present the complete story to the district court, and was especially necessary here where Cortez indicated in his presentence investigation report interview he was not sure he was the driver of the

vehicle. Based on the foregoing, we conclude the State did not breach the plea agreement, *see Sullivan v. State*, 115 Nev. 383, 389, 900 P.2d 1258, 1262 (1999), and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

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

cc: Chief Judge, Second Judicial District Court  
Second Judicial District Court, Dept. 7  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk