

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADAM MICHAEL PIERSON,

No. 36907

Appellant,

**FILED**

vs.

APR 10 2001

THE STATE OF NEVADA,

JANETTE M. BLOOM  
CLERK OF SUPREME COURT

Respondent.

BY *J. Seavitt*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of burglary. The district court sentenced appellant to a prison term of 16 to 60 months, and ordered appellant to pay \$100.00 in restitution.

Appellant contends that the State breached the plea agreement at sentencing, by attempting to introduce evidence that appellant had been trying to escape from his jail cell and that he intended to flee if granted probation. Appellant relies primarily on this court's decision in Kluttz.<sup>1</sup>

The instant case, however, is distinguishable from Kluttz. Here, the evidence proffered by the State was not actually admitted into evidence, and the State never insinuated that the plea bargain should not be honored. Indeed, the State affirmatively recommended probation, as required by the plea bargain. We therefore conclude that the State did not breach the plea agreement, and we

ORDER the judgment of conviction AFFIRMED.

*Young*  
\_\_\_\_\_  
Young J.

*Leavitt*  
\_\_\_\_\_  
Leavitt J.

*Becker*  
\_\_\_\_\_  
Becker J.

cc: Hon. Richard A. Wagner, District Judge  
Attorney General  
Pershing County District Attorney  
State Public Defender  
Pershing County Clerk

<sup>1</sup>Kluttz v. Warden, 99 Nev. 681, 669 P.2d 244 (1983).