

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN TRENT GUNTER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 71554

FILED

MAY 16 2017

ELIZABETH BROWN  
CLERK OF THE COURT  
DEPUTY CLERK

ORDER OF AFFIRMANCE

Justin Trent Gunter appeals from a judgment of conviction entered pursuant to an *Alford*<sup>1</sup> plea of two counts of conspiracy to violate the Uniform Controlled Substances Act. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

First, Gunter claims the district court violated his Fourth and Fifth Amendment rights by requiring him to submit to a drug test during the July 18, 2014, proceeding. As a general rule, the entry of a guilty plea waives any right to appeal from events which preceded that plea. See *Webb v. State*, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975). NRS 174.035(3) presents an exception to the rule; it allows a defendant pleading guilty to reserve in writing the right to appeal an adverse determination on a specified pretrial motion, provided he or she has the consent of the district court and district attorney. The record demonstrates the July 18, 2014, proceeding occurred before Gunter entered his *Alford* plea and this issue

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<sup>1</sup>*North Carolina v. Alford*, 400 U.S. 25 (1970).


was not reserved for appeal. Accordingly, we conclude Gunter waived his unconstitutional-drug-test claim and decline to consider it on appeal.

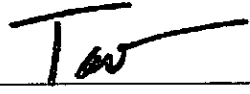
Second, Gunter claims the district court erred by refusing to acknowledge his California medical marijuana card despite being advised by defense counsel that Nevada now recognizes nonresident cards. The record demonstrates the district court refused to recognize Gunter's California medical marijuana card during a proceeding that occurred before Gunter entered his *Alford* plea and this issue was not reserved for appeal. Accordingly, we conclude Gunter waived his California-medical-marijuana-card claim and decline to consider it on appeal. *See* NRS 174.035(3); *Webb*, 91 Nev. at 470, 538 P.2d at 165; *see generally* NRS 453A.364(1).


Third, Gunter claims the district court erred by failing to follow the parties' plea negotiations. He argues the district court rejected the plea negotiations by sentencing him to prison. And he asserts the district court was required to state its reasons for rejecting the negotiations on the record. However, the language of the guilty plea agreement did not bind the district court to impose the sentence recommended by the parties, nor did it condition Gunter's plea on the district court's imposition of the recommended sentence. In fact, it specifically stated the district court is not obligated to accept the parties' sentencing recommendation. We note the district court's sentencing discretion is not bound by the terms of a plea agreement, *see generally Van Buskirk v. State*, 102 Nev. 241, 244, 720 P.2d 1215, 1217 (1986), and the district court is not required to state its reasons for imposing a sentence on the record, *see Campbell v. Eighth Judicial Dist. Court*, 114 Nev. 410, 414,

957 P.2d 1141, 1143 (1998). Accordingly, we conclude Gunter has failed to demonstrate error in this regard.

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

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

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

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

cc: Hon. Kimberly A. Wanker, District Judge  
Mountain West Lawyers  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk