

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARCO ANTONIO VILLARREAL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37168

FILED

MAY 17 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of trafficking in a controlled substance. The district court sentenced appellant to a prison term of 10 years, and ordered appellant to pay extradition costs in the amount of \$721.38.

On March 22, 2001, counsel for appellant filed a fast track statement in this appeal. The fast track statement contains no statement of facts, and counsel for appellant states in the fast track statement that "appellate counsel does not have meritorious, non-frivolous issues which may be advanced on appeal." The legal argument section of the fast track statement states simply, "N/A." This is in direct contravention of this court's decision in Ramos v. State.¹

Counsel for appellant is reminded that this court has held: "Attorneys must argue for their clients without conceding an appeal is without merit."²

[I]f, in counsel's estimation, an appeal is without merit, counsel must discuss his or her conclusion with the client and advise the client against pursuing the appeal. If a defendant insists on continuing with the appeal, counsel should file a

¹113 Nev. 1081, 944 P.2d 856 (1997).

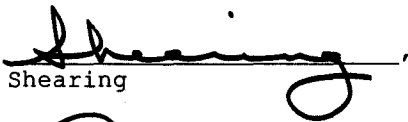
²Id. at 1084, 944 P.2d at 858.

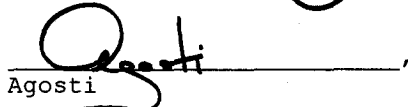
brief that includes all arguable issues and argues defendant's appeal as well as possible.³

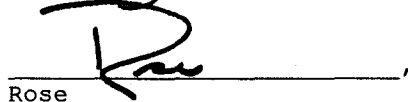
Counsel for appellant is cautioned that, in the future, filing a fast track statement that does not comport with the requirements of NRAP 3C and Ramos will result in the imposition of sanctions, including the striking of the fast track statement and the possible imposition of monetary sanctions.

On March 26, 2001, the State filed a motion to dismiss this appeal because appellant waived his right to appeal as part of the plea agreement. We agree. The guilty plea agreement specifically states that appellant waives "[t]he right to appeal any conviction to the Nevada Supreme Court." This court has held: "A knowing and voluntary waiver of the right to appeal made pursuant to a plea bargain is valid and enforceable."⁴ We conclude that appellant has validly waived his right to appeal. Accordingly, respondent's motion is granted and we

ORDER this appeal DISMISSED.


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Rose

cc: Hon. Jeffrey D. Sobel, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk

³Id. at 1084, 944 P.2d at 857 (citation omitted).

⁴Cruzado v. State, 110 Nev. 745, 747, 879 P.2d 1195, 1195 (1994), overruled in part on other grounds by Lee v. State, 115 Nev. 207, 985 P.2d 164 (1999).