

IN THE SUPREME COURT OF THE STATE OF NEVADA

MANUEL R. HINOJOSA, JR.,

No. 37170

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

OCT 31 2001

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's "motion for specific performance of plea agreement or to withdraw guilty plea."

On June 13, 2000, the district court convicted appellant, pursuant to a guilty plea, of attempt lewdness with a child under fourteen years of age. The district court sentenced appellant to serve a term of thirty-two (32) to one hundred forty-four (144) months in the Nevada State Prison. This court affirmed the district court's denial of appellant's appeal from his judgment of conviction.<sup>1</sup> The remittitur issued on December 27, 2000.

On September 8, 2000, appellant filed a "motion for specific performance of plea agreement or to withdraw guilty plea." On the same day, appellant filed a "motion to vacate guilty plea." The State opposed the motions. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an

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<sup>1</sup>Hinojosa v. State, Docket No. 36430 (Order of Affirmance, November 28, 2000).

evidentiary hearing. On December 5, 2000, the district court denied appellant's motions. This appeal followed.

In his motions, appellant contended that he received a sentence in excess of that agreed upon by the State, thus rendering his guilty plea involuntary. Specifically, appellant argued that "the parties' reasonable expectations were that (appellant) would receive a minimum of twenty-four (24) months and a maximum of sixty (60) months in the Nevada Department of Prisons (sic)," and that he is entitled to specific performance of that sentence.

On direct appeal, appellant contended that the State had breached the plea agreement by presenting arguments at sentencing. This court rejected appellant's claim. The doctrine of the law of the case prevents relitigation of this issue.<sup>2</sup> Further, "[t]he doctrine of the law of the case cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings."<sup>3</sup>

Moreover, appellant's claim lacked merit. Although appellant's guilty plea agreement provided that the State "has agreed to . . . recommend a minimum sentence of twenty-four (24) months and a maximum of sixty (60) months," it also stated that "the court must sentence (appellant) . . . for a minimum term of not less than two (2) years and a maximum term of not more than twenty (20) years," and that appellant's plea was not the product of a promise or guarantee of any particular sentence. The district court also ascertained during the canvass that appellant read and understood the guilty plea agreement prior to signing it. Moreover, during appellant's plea canvass the district court orally informed appellant of the possible ranges of sentences and

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<sup>2</sup>See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

<sup>3</sup>Id. at 316, 535 P.2d at 799.

that as a result of his plea he could serve a maximum sentence of twenty (20) years in prison. Appellant also affirmatively indicated that sentencing was in the court's discretion. Appellant's mere subjective belief as to a potential sentence is insufficient to invalidate his guilty plea as involuntary and unknowing.<sup>4</sup>

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>5</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>6</sup>

 J.  
Shearing

 J.  
Rose

 J.  
Becker

cc: Hon. Kathy A. Hardcastle, District Judge  
Attorney General  
Clark County District Attorney  
Manuel R. Hinojosa, Jr.  
Clark County Clerk

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<sup>4</sup>See Rouse v. State, 91 Nev. 677, 541 P.2d 643 (1975).

<sup>5</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

<sup>6</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.