

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL ANTHONY FARACI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82056-COA

FILED

JUL 12 2021

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

ORDER OF AFFIRMANCE

Michael Anthony Faraci appeals from a judgment of conviction, entered pursuant to a guilty plea, of battery with the intent to commit sexual assault. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

First, Faraci contends the district court abused its discretion by sentencing Faraci to life in prison with the possibility of parole after a minimum of ten years has been served. Faraci argues the applicable sentencing statute, NRS 200.400(4)(b), limits the district court to imposing a minimum term of two years. “[W]e review questions of statutory interpretation *de novo*.” *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011).

NRS 200.400(4)(b) provides for a sentence of “imprisonment in the state prison *for a minimum term of not less than 2 years* and a maximum term of life with the possibility of parole.” (Emphasis added.) The statute’s plain language affords the district court discretion in setting the minimum term so long as that term is not less than two years. *See McNeill v. State*,


132 Nev. 551, 555, 375 P.3d 1022, 1025 (2016) (“[W]hen a statute is clear on its face, a court cannot go beyond the statute in determining legislative intent.” (quotation marks omitted)); *Miller v. State*, 113 Nev. 722, 726-27, 941 P.2d 456, 459 (1997) (contrasting a statute requiring a specific sentence with other sentencing statutes that provided for a minimum term of “not less than” a specific number of years and a maximum term of “not more than” a specific number of years and thereby allowed for some variation in the sentencing range). The sentence imposed in this case was within the parameters provided by NRS 200.400(4)(b). Therefore, we conclude the district court did not abuse its discretion by sentencing Faraci to a prison term of life with the possibility of parole after a minimum of ten years has been served.

Second, Faraci argues the State’s request for a sentence of life in prison with the possibility of parole after a minimum of ten years has been served violated the terms of the guilty plea agreement. Guilty plea agreements are subject to general contract principles. *State v. Crockett*, 110 Nev. 838, 842, 877 P.2d 1077, 1079 (1994). “When the State enters into a plea agreement, it is held to the most meticulous standards of both promise and performance with respect to both the terms and the spirit of the plea bargain.” *Sparks v. State*, 121 Nev. 107, 110, 110 P.3d 486, 487 (2005) (internal quotation marks omitted). While Faraci argues that he misunderstood the plea agreement, he has identified no provision in the plea agreement that prevented the State from arguing for a term of 10 years

to life in prison.¹ Faraci thus fails to demonstrate that the State breached the plea agreement. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Egan K. Walker, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹Faraci does not contend that his guilty plea was invalid.