

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALIDA LYNN RIOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

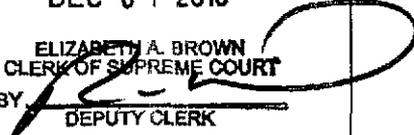
No. 74321-COA

ALIDA LYNN RIOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74322-COA

FILED

DEC 04 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Alida Lynn Rios appeals from a judgment of conviction entered pursuant to a guilty plea of robbery entered in district court case number 17CR00211B (Docket No. 74321) and a “judgment of revocation of probation” entered in district court case number 17CR000321B (Docket No. 74322). First Judicial District Court, Carson City; James E. Wilson, Judge.

Rios argues the State violated the guilty plea agreement at the sentencing hearing for these cases because its argument caused the district court to sentence her to a lengthier sentence than what the parties had jointly recommended. “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). “A plea agreement is construed according to what the defendant reasonably understood when he or she entered the plea.” *Sullivan v. State*, 115 Nev. 383, 387, 990 P.2d 1258, 1260 (1999). We review

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an unpreserved allegation that the State breached a plea agreement for plain error. *See id.* at 387 n.3, 990 P.2d at 1260 n.3. In conducting plain error analysis, we must determine whether there was error and whether the error was plain from the record. *Green v. State*, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003).

Our review of the record reveals Rios failed to demonstrate plain error because the State complied with both the terms and the spirit of the plea agreement. In the written plea agreement, the parties agreed to jointly recommend a sentence of 24 to 96 months in prison for the robbery count and Rios agreed to stipulate to revocation of her probation in a separate case. The agreement also specified that “[b]oth parties will be free to present evidence to support the [sentencing] recommendation.” During the sentencing hearing, the State presented evidence concerning Rios’ criminal history and the crimes at issue in this matter, and also informed the district court that it was abiding by the plea agreement to request imposition of the jointly recommended sentence. A review of the record reveals that at no time did the State argue or imply the district court should impose a sentence greater than the parties’ agreed-upon recommended sentence. Therefore, we conclude Rios fails to demonstrate plain error in this regard. Accordingly, we

ORDER the judgment of conviction and judgment of revocation of probation AFFIRMED.



Silver

C.J.



Tao

J.



Gibbons

J.

cc: Hon. James E. Wilson, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk