

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONNIE RICHARDSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78409-COA

**FILED**

**MAY 11 2020**

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

*ORDER OF AFFIRMANCE*

Ronnie Richardson appeals from a judgment of conviction, pursuant to a guilty plea, of child abuse, neglect, or endangerment. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Richardson contends the district court erred when it heard arguments from the State at sentencing that did not conform to the guilty plea agreement. He further suggests that, because the State did not regain the right to argue for any appropriate sentence, the State breached the plea agreement and sentencing before a different judge was warranted.

“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). The State is released from its obligations to perform under a guilty plea agreement when the defendant breaches the agreement, the breach is sufficiently material, and the breach was intentional. *Gamble v. State*, 95 Nev. 904, 907-08, 604 P.2d 335, 337 (1979).

As part of the guilty plea agreement, the State agreed not to oppose probation, and Richardson agreed that if he “fail[ed] to appear at

any subsequent hearing in this case, . . . the State will have the unqualified right to argue for any legal sentence. . . .” Richardson failed to appear at his October 2018 sentencing hearing because he was in municipal custody for outstanding traffic matters that predated the plea agreement in this case. The district court issued a bench warrant, and Richardson next appeared in court three months later on a return of that warrant. At the next sentencing hearing, the prosecutor stated she believed the State had regained the right to argue in light of Richardson’s failure to appear at his initial sentencing hearing and argued for a term of imprisonment for 19 to 48 months. Richardson asked for an offer of proof that the State had regained the right to argue, and the district court ordered briefing as to whether the State had regained the right to argue.

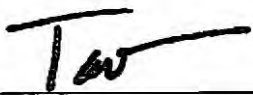
At the next sentencing hearing, the district court concluded Richardson did not appear for his initial sentencing hearing because he was in the custody of the city for traffic warrants and that the detention was Richardson’s fault because “it was an intentional act on his part not to take care of [the traffic warrants].” The State pointed out that it took the position in its brief that Richardson also made no attempt to return to court once he was released from custody in October. Trial counsel noted this was a different argument. The district court agreed and stated, “I’ll take it as a no opposition to probation.” The State made no further argument in favor of imprisonment.

Richardson does not challenge the district court’s findings, and we cannot say the findings are clearly erroneous. Further, because the district court indicated it considered the State’s argument to be a non-opposition to probation and the State made no further argument in favor of imprisonment, we cannot conclude that Richardson’s substantial rights

were affected. Finally, under these circumstances, we cannot say the State breached the plea agreement. For these reasons, we conclude Richardson is not entitled to relief, and we

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Chief Judge, Eighth Judicial District  
Legal Resource Group  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk