

IN THE SUPREME COURT OF THE STATE OF NEVADA

KUPAA KEA,

No. 61160

Electronically Filed  
Aug 30 2012 04:35 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

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FAST TRACK RESPONSE

1. Name of party filing this Fast Track Response: The State of Nevada.
2. Name, address and phone number of attorney submitting this Fast Track Response: Jennifer P. Noble, Deputy District Attorney, Washoe County District Attorney's Office, P.O. Box 30083, Reno, Nevada 89520; (775) 328-3200.
3. Name, address and phone number of appellate counsel if different from trial counsel: See Number 2 above.
4. Proceedings raising same issue: None.
5. Procedural history: On January 23, 2012, the State filed an information charging Appellant Kea with two counts of Battery With a Deadly Weapon Causing Substantial Bodily Harm. Appellant's Appendix, hereinafter "AA,"

pp. 1-2. On February 7, 2012, Kea signed a guilty plea memorandum. AA, pp. 4-9. Pursuant to the guilty plea memorandum, Kea agreed to plead guilty to both counts. *Id.* In exchange for Kea's guilty plea, the State agreed to dismiss a drug charge in another case and forgo filing additional charges with respect to this case, but was otherwise free to argue. *Id.* On February 8, 2012, after a thorough plea canvass, Kea pleaded guilty. *Id.*, pp. 12-21. At sentencing, Kea agreed with the State that he deserved to go to prison, but asked the court not to give him "the max." *Id.*, p. 81. Noting that Kea's attorney did a "phenomenal job" in representing Appellant, the district court nonetheless found him to be a danger to the community, and sentenced him to 35-156 months on each count, to run consecutively. *Id.*, pp. 83-84.

6. Statement of facts: As this is an appeal from a judgment of conviction pursuant to a guilty plea, it does not appear that there are any material facts in dispute. As noted above, Kea pleaded guilty to an information. According to that charging document, on October 27, 2011, Kea shot two men at Paradise Park with a .22 caliber rifle, causing substantial bodily harm to both.

7. Issues on appeal: Where Appellant fails to identify any appealable issue in his Fast Track Statement, should this Court affirm the judgment of conviction?

8. Legal argument:

A. Kea Fails to Raise An Appealable Issue.

Kea does not identify what issues, if any, he is appealing. His sentence

is not in excess of that contemplated by statute. *See* NRS 200.481. He was represented by counsel, signed a guilty memorandum, and was canvassed thoroughly by the district court. Accordingly, the judgment of the lower court should therefore be affirmed.

9. Preservation of issues: As Appellant does not identify any issues on appeal, the State cannot discern whether or not they have been preserved.

DATED: August 30, 2012.

RICHARD A. GAMMICK  
DISTRICT ATTORNEY

By: JENNIFER P. NOBLE  
Appellate Deputy

## VERIFICATION

1. I hereby certify that this fast track response complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this fast track response has been prepared in a proportionally spaced typeface using Corel WordPerfect X3 in 14 Georgia font.

2. I further certify that this fast track response complies with the page-or type-volume limitations of NRAP 3C(h)(2) because it does not exceed 10 pages.

3. Finally, I recognize that pursuant to NRAP 3C I am responsible for filing a timely fast track response and that the Supreme Court of Nevada may sanction an attorney for failing to file a timely fast track response, or failing to cooperate fully with appellate counsel during the course of an appeal. I therefore certify that the information provided in this fast track response is true and complete to the best of my knowledge, information and belief.

DATED: August 30, 2012.

JENNIFER P. NOBLE  
Appellate Deputy  
Nevada Bar No. 9446  
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**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on August 30, 2012. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Katherine I. Berning, Esq.  
Counsel for Kupaa Kea

Shelly Muckel  
Washoe County District Attorney's Office