IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NICHOLAS CHARLES LANZALACA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83780-COA

ORDER OF AFFIRMANCE

Nicholas Charles Lanzalaca appeals from a judgment of conviction entered pursuant to a guilty plea of attempted possession of a controlled substance. Fourth Judicial District Court, Elko County; Mason E. Simons, Judge.

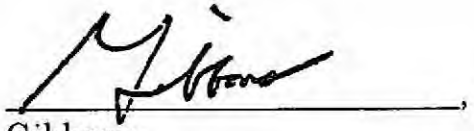
First, Lanzalaca argues the district court exceeded its jurisdiction by sentencing Lanzalaca to a felony rather than deferring the judgment of conviction pursuant to NRS 176.211. "[T]he term jurisdiction means . . . the court's statutory or constitutional *power* to adjudicate the case." *United States v. Cotton*, 535 U.S. 625, 630 (2002) (internal quotation marks omitted). Lanzalaca's claim did not implicate the district court's statutory or constitutional power to adjudicate a case but rather challenged the district court's decision to impose a particular sentence. In addition, the district court had jurisdiction over Lanzalaca's criminal case because he committed a public offense in Nevada. *See* Nev. Const. art. 6, § 6; NRS 171.010. Accordingly, Lanzalaca failed to demonstrate the district court exceeded its jurisdiction when it imposed his sentence. Therefore, Lanzalaca is not entitled to relief based upon this claim.

Second, Lanzalaca argues the district court committed plain error by failing to defer the judgment of conviction pursuant to NRS 176.211 because the plea agreement ensured that he would receive deferral if the court treated his offense as a felony. Lanzalaca was convicted of a felony, but he did not request the district court to defer the judgment of conviction, and thus, he is not entitled to relief absent a demonstration of plain error. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48-49 (2018). To demonstrate plain error, Lanzalaca must show "(1) there was error; (2) the error is plain, meaning that it is clear under the current law from a casual inspection of the record; and (3) the error affected [his] substantial rights." *Id.* at 50, 412 P.3d at 48 (internal quotation marks omitted). The guilty plea did not require the district court to defer Lanzalaca's judgment of conviction. Rather, the agreement acknowledged that the district court would defer the judgment of conviction with Lanzalaca's consent. At the sentencing hearing, Lanzalaca did not consent to a deferral. Therefore, Lanzalaca did not demonstrate the district court erred by declining to defer his judgment of conviction.

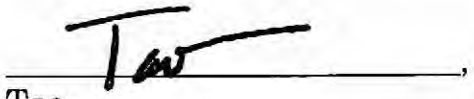
Third, Lanzalaca contends the State violated the plea agreement by arguing on appeal that the plea agreement did not require the district court to defer Lanzalaca's judgment of conviction pursuant to NRS 176.211. "When the State enters into a plea agreement, it is held to the most meticulous standards 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). The written plea agreement

did not require the district court to defer the judgment of conviction but rather stated the court would do so if Lanzalaca consented to a deferral. As stated previously, Lanzalaca did not consent to a deferral. Because the plea agreement did not require the district court to defer Lanzalaca's judgment of conviction, the State did not breach the plea agreement by arguing on appeal that the district court did not err by declining to defer the judgment of conviction. Accordingly, we

ORDER the judgment of conviction AFFIRMED.[1]



_____, C.J.
Gibbons



_____, J.
Tao

_____, J.
Bulla

cc: Hon. Mason E. Simons, District Judge
Ben Gaumond Law Firm, PLLC
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk

---

[1]We have reviewed Lanzalaca's April 3, 2022, motion for full briefing. Lanzalaca filed his motion more than two months after the completion of fast track briefing, and he does not explain his delay. In addition, Lanzalaca does not provide specific reasons as to why this matter is not appropriate for resolution in the fast track program. Therefore, cause appearing, we deny Lanzalaca's motion for full briefing. *See* NRAP 3C(k)(2)(A), (B).