

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIMOTHY PERSSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43416

FILED

JAN 31 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted manufacture of a controlled substance. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant to a prison term of 12 to 72 months, but suspended the sentence and placed appellant on probation for a period not to exceed 5 years.

Appellant's sole contention is that his guilty plea was invalid. Specifically, appellant argues that the district court improperly coerced appellant into entering a guilty plea. At the hearing where appellant eventually entered a plea, appellant originally informed the court that he wished to retain new counsel and go to trial. The district judge informed appellant that if appellant exercised that option, the district court would revoke appellant's bail, "put [appellant] in jail . . . and reset the trial 60 days down the road." The district court went on to state that appellant's "choices are he pleads today or he goes to jail."

This court is mindful of the district court's need to prevent defendants from seeking endless continuances by seeking to substitute counsel on the eve of trial. In this case, we note that although the case had been continued numerous times, those continuances were either due to the need to allow for negotiations or because of court congestion. Under these circumstances, appellant's claim that his plea was coerced by the district judge's comments appears to have merit.<sup>1</sup>

However, this court

no longer permit[s] a defendant to challenge the validity of a guilty plea on direct appeal from the judgment of conviction. Instead, a defendant must raise a challenge to the validity of his or her guilty plea in the district court in the first instance, either by bringing a motion to withdraw the guilty plea, or by initiating a post-conviction proceeding.<sup>2</sup>

Although appellant filed a presentence motion to withdraw his guilty plea, appellant subsequently withdrew the motion. Because appellant withdrew his motion, his claim regarding the validity of his plea will not be considered on direct appeal. Should appellant wish to withdraw his plea and face trial on the original charges, he must seek post-conviction relief in the district court.

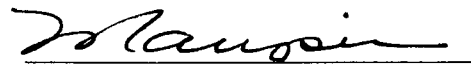
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<sup>1</sup>See Standley v. Warden, 115 Nev. 333, 990 P.2d 783 (1999).

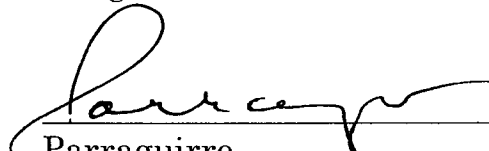
<sup>2</sup>Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

Having considered appellant's contention and concluded that it is not appropriate for review on direct appeal, we

ORDER the judgment of conviction AFFIRMED.

 J.  
Maupin

 J.  
Douglas

 J.  
Parraguirre

cc: Hon. Stewart L. Bell, District Judge  
Joseph S. Caramagno  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk