

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN CORBETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43418

FILED

NOV 15 2004

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of burglary. Eighth Judicial District Court, Clark County; Jackie Glass, Judge. The district court sentenced appellant Brian Corbett to serve a prison term of 33 to 84 months.

Corbett contends that the district court erred in denying his oral presentence motion to withdraw his guilty plea. Specifically, Corbett contends that his guilty plea was not knowing and intelligent because he was not advised of the elements of the charged crime and there was an insufficient factual basis to support the burglary charge. Additionally, Corbett contends that the district court should have conducted an evidentiary hearing on his oral motion because "[i]t was obvious that [Corbett] had not been provided with full discovery and, therefore, did not make a knowing, intelligent, and voluntary plea." We conclude that Corbett's contention lacks merit.

This court has held that "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."¹ Although Corbett made an oral

¹Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).


motion to withdraw his plea, his motion was based solely on the grounds that "there was some evidence, photos taken . . . that [he] wasn't shown." Corbett, however, failed to identify the new evidence or describe how it would have affected the validity of his guilty plea. We therefore conclude that Corbett was not entitled to an evidentiary hearing on his claim involving newly discovered evidence because it failed for lack of specificity.²

Moreover, we decline to consider Corbett's claim involving the sufficiency of the plea canvass and the factual basis to support the burglary charge because those issues are raised for the first time on direct appeal. Corbett must raise those claims 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.

Having concluded that Corbett's contentions either lack merit or are not appropriate for review on direct appeal, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

²See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

cc: Hon. Jackie Glass, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk