

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEMONE ANTONIO TISDALE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43450

FILED

MAY 19 2005

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On May 12, 2004, the district court convicted appellant Demone Antonio Tisdale, pursuant to a guilty plea, of second degree murder, felony child abuse and neglect, and three counts of gross misdemeanor child abuse and neglect. The district court sentenced Tisdale to a life term in the Nevada State Prison with parole eligibility after 10 years for the second degree murder. The district court also sentenced Tisdale to 43 to 120 months for the felony child abuse and neglect and three 12-month terms for the gross misdemeanor child abuse and neglect offenses. Finally, the district court ordered all the counts to run concurrently.

On appeal, Tisdale claims that the district court erred in denying his presentence motion to withdraw his guilty plea. Prior to sentencing, a district court may grant a motion to withdraw a guilty plea for any substantial, fair, and just reason.¹ When reviewing a district

¹See NRS 176.165; Woods v. State, 114 Nev. 468, 475, 958 P.2d 91, 95 (1998).

court's denial of a motion to withdraw a guilty plea, this court "will presume that the lower court correctly assessed the validity of the plea, and we will not reverse the lower court's determination absent a clear showing of an abuse of discretion."² In determining the validity of a guilty plea, this court looks to the totality of the circumstances.³

Tisdale argues that he should have been allowed to withdraw his plea because he failed to "properly admit and agree that he had committed the crimes in question." The record reveals that Tisdale admitted to or acknowledged during the plea canvass a factual basis to support each offense to which he pleaded guilty. Additionally, Tisdale admitted to a factual basis in the plea memorandum and attached information, which adequately explained the elements of the charges. He also acknowledged in the plea agreement that he understood the elements of the offenses and the consequences of his plea. Accordingly, we conclude that the district court did not abuse its discretion in denying Tisdale's motion on this basis.

Tisdale also claims that his plea was involuntary because he felt pressured to accept the plea. Tisdale explained during the motion hearing that his public defender engaged in "scare tactics" to secure a plea, including advising him that he was an ex-felon, that he faced a possible life sentence, and that it was in his best interest to accept the plea agreement. When asked why he did not advise the district court at the

²Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see Riker v. State, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995).


³State v. Freese, 116 Nev. 1097, 1104, 13 P.3d 442, 447 (2000); Bryant, 102 Nev. at 274, 721 P.2d at 369.

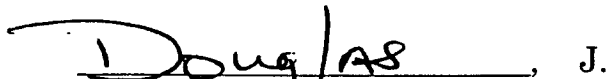
time he entered his plea that he did not want to accept the plea agreement, Tisdale responded, "I didn't think about it at that time."

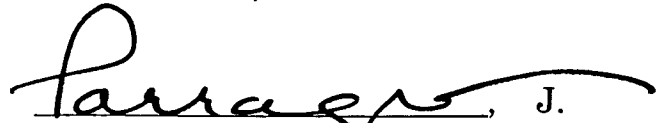
Additionally, Tisdale acknowledged in his plea agreement that he signed the agreement voluntarily and was not acting under duress or coercion. Tisdale fails to demonstrate whatsoever any coercive conduct by his counsel. Accordingly, we conclude that the district court did not err in denying Tisdale's claim in this regard.

Having considered Tisdale's claims and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.


Maupin


Douglas


Parraguirre

cc: Hon. Donald M. Mosley, District Judge
Christiansen Law Offices
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk