

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONIO TONY TERRELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43575

FILED

FEB 15 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 failure to notify change of address as an offender convicted of a crime against a child. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge. The district court sentenced appellant Antonio Tony Terrell to serve a prison term of 12 to 48 months.

Terrell's sole contention is that the district court erred in denying his pretrial petition for a writ of habeas corpus because, at the preliminary hearing, the State failed to present sufficient evidence that he committed the charged offense. While acknowledging that he pleaded guilty without expressly preserving the right to raise this issue, pursuant to NRS 174.035(3),<sup>1</sup> Terrell argues that this court should consider his

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<sup>1</sup>NRS 174.035(3) provides that: "With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty . . . reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion."

contention because the district court committed "plain error . . . both in reaching the erroneous conclusion that a defendant's admission was sufficient to support an element at the preliminary hearing stage, but also in its utter failure to review the Justice of the Peace's decision." We decline to consider the merits of Terrell's contention.

"[A] guilty plea represents a break in the chain of events which has preceded it in the criminal process. . . . [A defendant] may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea."<sup>2</sup> Moreover, the issue of the sufficiency of evidence adduced at a probable cause hearing is not jurisdictional and, therefore, may be waived by the conduct of the defendant.<sup>3</sup>

In this case, Terrell was expressly advised in the signed plea agreement that, in the absence of an express agreement to raise a particular appellate issue, "any substantive or procedural pretrial issue or issues which could have been raised at trial are waived by [the entry of the] plea." As previously noted, Terrell concedes that he did not preserve the right to challenge the district court's denial of his pretrial habeas petition. Accordingly, we conclude that Terrell waived his right to challenge that ruling by entering a guilty plea.


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<sup>2</sup>Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (quoting Tollett v. Henderson, 411 U.S. 258, 267 (1973)).

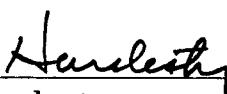
<sup>3</sup>See Ex Parte Rowland and Schuman, 74 Nev. 215, 326 P.2d 1102 (1958).

Having concluded that Terrell's claim has not been preserved for review on direct appeal, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Steven P. Elliott, District Judge  
Washoe County Public Defender  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk