

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER LEON SHAW,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43591

FILED

FEB 03 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, pursuant to a guilty plea, of one count of battery with substantial bodily harm and one count of second-degree kidnapping. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge. The district court sentenced appellant to a prison term of 12 to 32 months for battery, and a concurrent prison term of 24 to 84 months for kidnapping.

Appellant contends that the district court erred by denying his pre-sentencing motion to withdraw his guilty plea. Specifically, appellant argues that he did not understand the plea and that he had no knowledge of what he was doing. "A district court may, in its discretion, grant a defendant's [presentence] motion to withdraw a guilty plea for any 'substantial reason' if it is 'fair and just.'"<sup>1</sup> In considering whether a defendant has "advanced a substantial, fair, and just reason to withdraw a [guilty] plea, the district court must consider the totality of the

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<sup>1</sup>Woods v. State, 114 Nev. 468, 475, 958 P.2d 91, 95 (1998) (quoting State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969)); see also NRS 176.165.

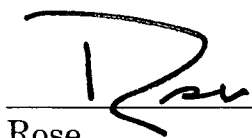
circumstances to determine whether the defendant entered the plea voluntarily, knowingly, and intelligently."<sup>2</sup>

During the canvass in the instant case, appellant informed the district court that he had read and understood the plea agreement, that he had signed the plea agreement, and that he believed that entering a plea pursuant to the agreement was in his best interest. Although appellant appeared to be confused about the elements of kidnapping, the district court allowed time for him to confer further with counsel. After conferring with counsel, appellant admitted to the elements of kidnapping.

Based on the totality of the circumstances, we conclude that the district court correctly found that appellant's plea was validly entered.<sup>3</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Becker

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

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

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<sup>2</sup>Crawford v. State, 117 Nev. 718, 722, 30 P.3d 1123, 1125-26 (2001).

<sup>3</sup>Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (holding that this court presumes that the lower court correctly assessed the validity of the plea, and that the lower court's determination will not be overturned absent a clear showing of an abuse of discretion).

cc: Hon. John S. McGroarty, 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