

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM LEE WRIGHT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43723

FILED

FEB 03 2005

ORDER OF AFFIRMANCE

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

This is an appeal from a district court order denying appellant's motion to correct an illegal sentence or, alternatively, motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On November 27, 2002, appellant William Lee Wright was convicted, pursuant to a guilty plea, of battery with intent to commit a crime (count I) and child endangerment (count II). The district court sentenced Wright to serve a prison term of 24 to 84 months for count I and a concurrent prison term of 24 to 96 months for count II. Wright did not file a direct appeal.

On April 2, 2004, Wright, with the assistance of counsel, filed a motion to correct an illegal sentence or, alternatively, a motion to withdraw the guilty plea. The State opposed the motion, and counsel for Wright supplemented the motion. After hearing arguments from counsel, the district court denied the motion. Wright filed this timely appeal.

Wright argues that the district court abused its discretion in denying the motion because his guilty plea to the offense of child

endangerment was invalid. Specifically, Wright argues that there was an inadequate factual basis in support of a conviction under NRS 200.508(1)(a)(2) because there was no evidence in the record that the child-victim actually suffered substantial mental harm. We conclude that Wright's contention lacks merit.

Pursuant to NRS 176.165, a post-conviction motion to withdraw a guilty plea may be granted where there has been a manifest injustice. But, generally, a guilty plea will be upheld where the totality of the circumstances shown by the record demonstrates that it was knowingly and voluntarily made.¹ A guilty plea is presumptively valid, and a defendant has the burden of establishing that the district court's denial of the motion to withdraw the plea was a clear abuse of discretion.² Part of our inquiry into the validity of a guilty plea includes "whether a defendant understood the true nature of the charge against him."³

In this case, the totality of the circumstances indicates that Wright's guilty plea was knowing and voluntary. In both the plea canvass and the plea agreement, Wright admitted to facts sufficient to constitute

¹State v. Freese, 116 Nev. 1097, 1104-06, 13 P.3d 442, 447-48 (2000); Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 367-68 (1986).

²Bryant, 102 Nev. at 272, 721 P.2d at 368.

³Id. at 273, 721 P.2d at 368; see also Hanley v. State, 97 Nev. 130, 135, 624 P.2d 1387, 1390 (1981), overruled on other grounds by Woods v. State, 114 Nev. 468, 958 P.2d 91 (1998).

the crime of child endangerment causing substantial mental harm.⁴ Moreover, the fact that Wright solemnly admitted in open court that he is in fact guilty of the offense of child endangerment causing substantial mental harm thereby waived his right to challenge the evidence supporting the charge.⁵ Finally, the record shows that Wright gained substantial benefits through his plea bargain. Having accepted those benefits, Wright may not avoid the consequences of his bargain by attacking the sufficiency of the evidence of the bargained-for charges.⁶ Accordingly, we conclude that the district court did not abuse its discretion in denying the motion because the totality of circumstances indicates that Wright's guilty plea was knowing and voluntary.⁷

⁴See Croft v. State, 99 Nev. 502, 665 P.2d 248 (1983) (recognizing that an affirmative showing that a defendant understands the nature of the offense exists where a defendant adopts as true the court's recitation of facts constituting the offense pleaded to).

⁵Krauss v. State, 116 Nev. 307, 310-11, 998 P.2d 163, 165 (2000) (recognizing that a defendant's guilty plea relieves the State of the obligation of proving the substantive offense).

⁶See Woods, 114 Nev. at 477, 958 P.2d at 96-97 (rejecting argument that guilty plea was invalid based upon an unlawful plea agreement where defendant "voluntarily entered into the plea agreement and accepted its attendant benefits").

⁷To the extent that Wright argues that his sentence should be corrected because he was mistakenly sentenced under NRS 200.508(1)(a)(2), we conclude that the district court did not err in rejecting that contention. See Edwards v. State, 112 Nev. 704, 918 P.2d 321 (1996).

Having considered Wright's contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

Becker, C.J.
Becker

Rose, J.
Rose

Hardesty, J.
Hardesty

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