

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE A. SALAZAR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44136

FILED

SEP 28 2005

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a nolo contendere plea, of one count of battery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Jose A. Salazar to serve a prison term of 24 to 60 months to run consecutively to the sentence imposed in an unrelated case.

Salazar contends that his nolo cotendere plea was unknowing and involuntary because he was not fully advised of the terms of the plea agreement and the consequences of the criminal conviction. We decline to consider Salazar's contention. Generally, this court will not consider a challenge to the validity of the guilty plea on direct appeal from the judgment of conviction.¹ "Instead, 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."²

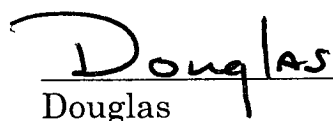
¹Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); but see Smith v. State, 110 Nev. 1009, 1010-11 n.1, 879 P.2d 60, 61 n.1 (1994).

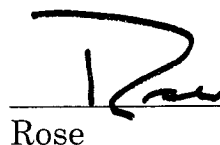
²Bryant, 102 Nev. at 272, 721 P.2d at 368.

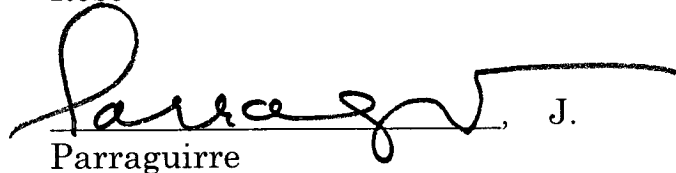
In this case, there is no allegation, or indication in the record on appeal, that Salazar previously raised the issue involving the validity of his nolo contendere plea in the district court. Accordingly, we conclude that Salazar must bring his challenge to the validity of the plea in the district court in the first instance.

Having considered Salazar's contention and concluded that it is not appropriate for review on direct appeal, we

ORDER the judgment of conviction AFFIRMED.

 _____, J.
Douglas

 _____, J.
Rose

 _____, J.
Parraguirre

cc: Hon. Stewart L. Bell, District Judge
Kocka & Bolton
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk