

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIRK EVAN REAMES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44218

**FILED**

MAY 24 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a plea of nolo contendere,<sup>1</sup> of one count of coercion and one count of battery with substantial bodily harm. Eighth Judicial District Court, Clark County; David Wall, Judge. The district court sentenced appellant Kirk Reames to two concurrent prison terms of 15 to 48 months.

Reames first claims that the district court erred by denying his pre-sentencing motion to withdraw his guilty plea. "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>2</sup>

"On appeal from the district court's determination, we 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."<sup>3</sup> In this case, there was a written plea

<sup>1</sup>See North Carolina v. Alford, 400 U.S. 25 (1970). Under Nevada law, "whenever a defendant maintains his or her innocence but pleads guilty pursuant to Alford, the plea constitutes one of nolo contendere." State v. Gomes, 112 Nev. 1473, 1479, 930 P.2d 701, 705 (1996).

<sup>2</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.

<sup>3</sup>Bryant v. State, 102 Nev. 268, 272, 721 P.3d 364, 368 (1986).

agreement, Reames was canvassed, and he informed the court that he believed it was in his best interest to plead guilty. We therefore conclude that Reames has not demonstrated that the district court abused its discretion in denying the motion to withdraw.

Additionally, Reames argues that the district court's mention of Reames' pending domestic violence case at sentencing violates the United States Supreme Court's ruling in Blakely.<sup>4</sup> We disagree. The fact that there was a pending domestic violence case against Reames was not a fact which extended Reames' sentence beyond the statutory maximum, and in fact, Reames' sentence was well within the statutory maximums.<sup>5</sup> We therefore conclude that Blakely is inapposite.

Moreover, this court has consistently afforded the district court wide discretion in its sentencing decision.<sup>6</sup> This court will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence."<sup>7</sup>

In this case, the district court listened to testimony from the victim regarding the extent of her injuries as a result of Reames' acts constituting substantial battery. Reames has not demonstrated that the district court relied on impalpable or highly suspect evidence, and we conclude that it was not error for the district court to consider the fact that

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<sup>4</sup>Blakely v. Washington, 542 U.S. 296 (2004) (facts which extend sentence beyond maximum must be determined by jury).

<sup>5</sup>NRS 200.481(2)(b); NRS 207.190(2)(a); NRS 193.130(2)(c).

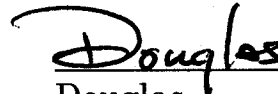
<sup>6</sup>See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).


<sup>7</sup>Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

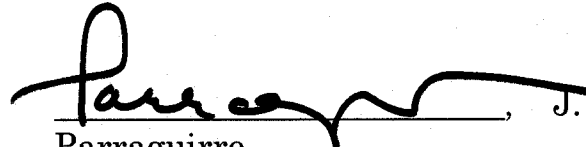
there were similar pending charges against Reames when he was sentenced.<sup>8</sup>

Having considered Reames' contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

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

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. David Wall, District Judge  
Donald J. Green  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>8</sup>See NRS 176.015(6) (permitting district court "to consider any reliable and relevant evidence").