

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARION NICHOLSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44461

FILED

APR 11 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge. The district court sentenced appellant Darion Nicholson to serve two consecutive prison terms of 96-240 months and ordered him to pay \$38,249.47 in restitution.¹

Nicholson's sole contention on appeal is that his guilty plea was not validly entered. More specifically, Nicholson argues that "he never had the intent to kill anyone, except in self-defense. And the crime of attempt[ed] murder cannot be found when the facts suggest self-defense." Nicholson claims that the district court committed plain error in accepting his guilty plea. We disagree.


This court has held that, generally, challenges to the validity of a guilty plea must be raised in the district court in the first instance by either filing a motion to withdraw the guilty plea or commencing a post-

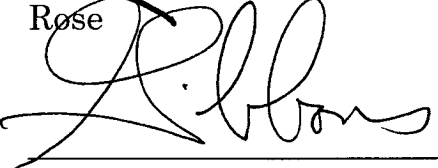
¹Nicholson was initially charged by way of a criminal complaint with ten counts of attempted murder with the use of a deadly weapon, and one count each of discharging a firearm at or into a structure and possession of a firearm by an ex-felon.

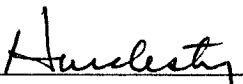
conviction proceeding pursuant to NRS chapter 34.² Because Nicholson has not challenged the validity of his guilty plea in the district court, his claim is not appropriate for review on direct appeal from the judgment of conviction, and therefore, we need not address it.³ Additionally, Nicholson fails to demonstrate that plain error occurred when the district court accepted his guilty plea.⁴

Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

²Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); but see Lyons v. State, 105 Nev. 317, 319, 775 P.2d 219, 220 (1989), modified in part on other grounds by City of Las Vegas v. Dist. Ct., 118 Nev. 859, 59 P.3d 477 (2002).

³Bryant, 102 Nev. at 272, 721 P.2d at 368.

⁴See Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003); see also NRS 178.602 (“Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court.”); Phenix v. State, 114 Nev. 116, 119, 954 P.2d 739, 740 (1998).

cc: Hon. Michelle Leavitt, 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