

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES BRANKO STOJIC,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44944

**FILED**

FEB 17 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a credit or debit card without the cardholder's consent. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge. The district court sentenced appellant to a prison term of 12 to 30 months.

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

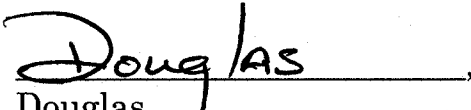
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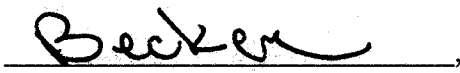
<sup>1</sup>Woods v. State, 114 Nev. 468, 475, 958 P.2d 91, 95 (1998) (quoting State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969)); see also NRS 176.165.

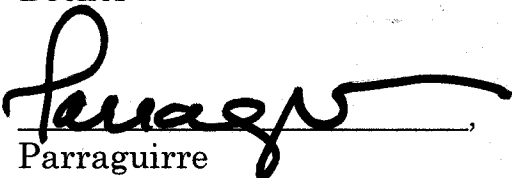
<sup>2</sup>Crawford v. State, 117 Nev. 718, 722, 30 P.3d 1123, 1125-26 (2001).

As an initial matter, we note that appellant did not actually file a motion, but stated at sentencing that he wanted to withdraw his plea. We conclude that appellant has not demonstrated that the district court clearly abused its discretion.<sup>3</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 J.  
Douglas

 J.  
Becker

 J.  
Parraguirre

cc: Hon. Jennifer Togliatti, District Judge  
Clark County Public Defender Philip J. Kohn  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<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).