

IN THE SUPREME COURT OF THE STATE OF NEVADA

BILLY JOE DRAKE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45620

FILED

FEB 23 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of seven counts of burglary, one count of attempted burglary, and one count of being an ex-felon in possession of a firearm.¹ Eighth Judicial District Court, Clark County; Jackie Glass, Judge. The district court sentenced appellant Billy Joe Drake to serve four consecutive and three concurrent prison terms of 24 to 72 months for the burglary counts, a consecutive prison term of 12 to 36 months for the attempted burglary count, and a concurrent prison term of 12 to 48 months for the possession of a firearm count.

Drake contends that he should be allowed to dismiss the public defender's office and proceed in proper person in this appeal. Drake, however, fails to cite any relevant legal authority or articulate a

¹Drake was originally charged, by way of amended information, with 42 felony counts for committing various property crimes at numerous retail stores and restaurants in Las Vegas.

cogent argument in support of his contention.² Moreover, this court has recognized that an appellant has no constitutional right to proceed on direct appeal without counsel.³ Accordingly, this court will not permit Drake to proceed in proper person on direct appeal from his judgment of conviction.

Drake also contends that he should be allowed to withdraw his guilty plea because it was not knowing and voluntary. Generally, this court will not consider a challenge to the validity of the guilty plea on direct appeal from the judgment of conviction.⁴ "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."⁵ Here, there is no allegation, or indication in the record on appeal, that Drake previously raised the issue involving the validity of his guilty plea in the district court. Accordingly, we decline to consider Drake's contention.

Having considered Drake's contentions and concluded that

²See Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").

³See Blandino v. State, 112 Nev. 352, 914 P.2d 624 (1996); see also Martinez v. Court of Appeal, 528 U.S. 152 (2000).

⁴Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 367-68 (1986); but see Smith v. State, 110 Nev. 1009, 1010-11 n.1, 879 P.2d 60, 61 n.1 (1994).

⁵Bryant, 102 Nev. at 272, 721 P.2d at 368.

they either lack merit or are not appropriate for review on direct appeal,
we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

cc: Honorable Jackie Glass, 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