IN THE SUPREME COURT OF THE STATE OF NEVADA

WENDELL EUGENE COYLE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45781

FILED

MAY 03 2006

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, entered pursuant to an Alford plea,[1] of one count of attempted sexual assault and one count of attempted lewdness with a minor under the age of 14. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Wendell Eugene Coyle to serve two concurrent prison terms of 24 to 120 months.

Coyle was arrested in March 2005 for crimes he committed in June 1996. The State charged him with two counts of sexual assault on a minor under the age of 14. Coyle filed a motion to dismiss the charges on grounds that the statute of limitations had run. The district court denied the motion, and Coyle was subsequently indicted on three counts of sexual assault on a minor under the age of 14 and one count of lewdness with a minor under the age 14.

[1]See North Carolina v. Alford, 400 U.S. 25 (1970).

Coyle filed a presentence petition for a writ of habeas corpus. While the petition was pending, Coyle entered into a plea agreement, the district court conducted a plea canvass, and the district court accepted Coyle's Alford plea. However, prior to sentencing, Coyle moved to withdraw his plea. The district court appointed new counsel to represent Coyle, and, following a hearing, it denied Coyle's motion and sentenced him in accordance with the parties' agreement. This appeal follows.

Coyle's sole contention on appeal is that the district court abused its discretion by denying his presentence motion to withdraw the Alford plea. He claims that his plea was not entered voluntarily, knowingly, and intelligently because the district court's canvass was perfunctory and did not adequately incorporate the terms of the agreement. He also argues that the district court failed to ensure that he understood the elements of the crimes to which he was pleading. We disagree.

The district court may grant a presentence motion to withdraw a guilty plea for any substantial reason that is fair and just.[2] "On appeal from a district court's denial of a motion to withdraw a guilty plea, this court '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.'"[3] If the

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[2]State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969).

[3]Riker v. State, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995) (quoting Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986)).

motion to withdraw is based on a claim that the guilty plea was not entered voluntarily, knowingly, and intelligently, the burden to substantiate the claim remains with the appellant.[4]

We conclude that the district court did not abuse its discretion by denying Coyle's motion to withdraw the Alford plea. The totality of the circumstances indicates that Coyle's plea was knowing and voluntary, and the record belies Coyle's claim that he was not informed of the elements of the offenses.[5] In the written plea agreement, Coyle acknowledged that he voluntarily entered the Alford plea, understood the consequences of the plea, and understood the rights and privileges he waived by entering the plea. He further acknowledged that his attorney thoroughly explained the elements of the original charges, and that he understood that the State had to prove each element. During the district court's oral plea canvass, Coyle acknowledged that he understood the negotiations; that he read, understood, and signed the plea agreement; and that his Alford plea was made freely and voluntarily. Coyle further admitted that it was his belief that the State could prove that he was guilty of all four of the original charges. Finally, we note that Coyle received a substantial benefit for his Alford plea in that the State dismissed two felony counts with potential life sentences and agreed not to oppose Coyle's request that the sentences run concurrently.

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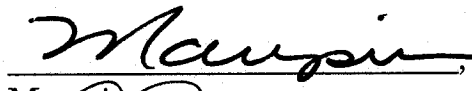
[4]Bryant, 102 Nev. at 272, 721 P.2d at 368.

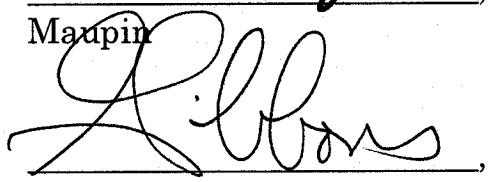
[5]See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

Having considered Coyle's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.[6]



_____, J.
Maupin



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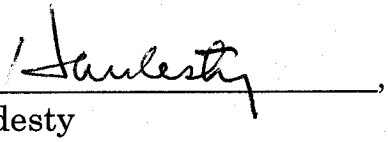
Gibbons



_____, J.
Hardesty

cc: Hon. Stewart L. Bell, District Judge
Robert L. Langford & Associates
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk
Wendell Eugene Coyle

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[6]Because Coyle is represented by counsel in this matter, we decline to grant him permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to Coyle unfiled all proper person documents he has submitted to this court in this matter.