IN THE SUPREME COURT OF THE STATE OF NEVADA

LEANN GARCIA, AKA LEANN ISABELL GARCIA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45913

FILED

MAR 24 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion to withdraw guilty plea. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On December 10, 2004, the district court convicted appellant, pursuant to a guilty plea, of first degree murder, robbery with the use of a deadly weapon, and grand larceny auto. The district court sentenced appellant to serve a combined total term of life in the Nevada State Prison with the possibility of parole after twenty years. No direct appeal was taken.

On July 20, 2005, appellant filed a motion to withdraw her guilty plea, contending she was mentally incompetent to enter the plea and her counsel was ineffective for allowing her to enter the plea without investigating her mental competence. The State opposed the motion. On August 16, 2005, the district court denied the motion. This appeal followed.

A guilty plea is presumptively valid, and a defendant carries the burden of establishing that the plea was not entered knowingly and

intelligently.[1] Further, this court will not reverse a district court's determination concerning the validity of a plea absent a clear abuse of discretion.[2] In determining the validity of a guilty plea, this court looks to the totality of the circumstances.[3]

In denying appellant's motion, the district court ruled that although appellant filed her motion in pro per, she actually had counsel at the time of filing, and the document was therefore "fugitive." We disagree. Appellant was represented by the Public Defender through the entry of her plea and the sentencing. The Public Defender's representation of appellant ended when her conviction became final. Further, on the same day the district court denied appellant's motion as a "fugitive document," the district court granted appellant's accompanying motion to have the Public Defender withdraw as counsel. If the district court believed appellant was still represented by counsel, it should have granted appellant's motion to have counsel withdraw, and then dealt with appellant's motion to withdraw her guilty plea on the merits.

Nevertheless, though we disagree with the reasoning the district court used, we conclude the district court reached the correct result in denying appellant's petition.[4] Appellant contended she was

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[1]Bryant v. State, 102 Nev. 268, 721 P.2d 364 (1986); see also Hubbard v. State, 110 Nev. 671, 877 P.2d 519 (1994).

[2]Hubbard, 110 Nev. at 675, 877 P.2d at 521.

[3]State v. Freese, 116 Nev. 1097, 13 P.3d 442 (2000); Bryant, 102 Nev. 268, 721 P.2d 364.

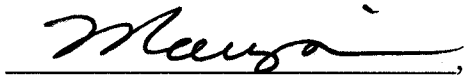
[4]See Milender v. Marcum, 110 Nev. 972, 977, 879 P.2d 748, 751 (1994) (holding this court may affirm the district court's decision on grounds different from those relied upon by the district court).

mentally incompetent to enter the plea, as she was suffering from and being medicated for night tremors, panic attacks, Post Traumatic Stress Disorder, seizures, and "other disorders." Appellant failed to demonstrate that any of these conditions or the treatment she was receiving for them affected her ability to knowingly and intelligently enter her plea. Our review of the record reveals that appellant responded coherently and appropriately during the plea hearing.

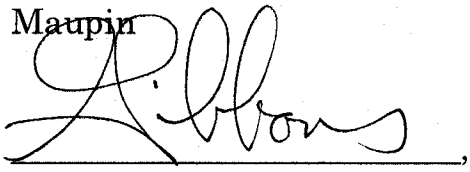
Appellant also contended her counsel was ineffective for failing to investigate whether she was mentally competent to enter the plea. Appellant failed to demonstrate that counsel's performance rendered appellant's plea unknowing, unintelligent, or involuntary. Accordingly, we conclude appellant's guilty plea was knowingly, intelligently, and voluntarily entered.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.[5] Accordingly, we

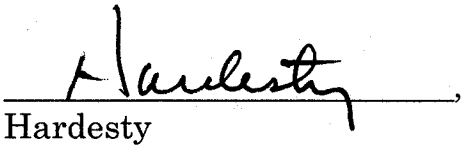
ORDER the judgment of the district court AFFIRMED.



_____, J.
Maupin



_____, J.
Gibbons



_____, J.
Hardesty

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[5]See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Donald M. Mosley, District Judge
Leann Garcia
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk