IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES B. HARRIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46151

FILED

APR 28 2006

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's "motion for change of venue" and "motion for enforcement of the sentencing agreement or in the alternative to withdraw the plea."[1] Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On October 21, 2003, the district court convicted appellant, pursuant to a guilty plea, of forgery. The district court sentenced appellant to serve a term of eighteen to forty-eight months in the Nevada

[1]Appellant's notice of appeal also indicates that he is appealing a district court order denying his motion to amend the judgment of conviction to include all jail time credits. However, this motion was actually granted, not denied, and the judgment of conviction was amended to reflect that appellant received the 207 days of jail time credit appellant requested in his motion. Therefore, this court will not consider this motion in this appeal.

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State Prison, suspended the sentence, and placed appellant on probation. On January 27, 2005, the district court revoked probation, executed the original sentence and amended the judgment of conviction to include 187 days of credit.[2] Appellant did not file a direct appeal.

On August 8, 2005, appellant filed a motion entitled "motion for enforcement of the sentencing agreement or in the alternative to withdraw the plea."[3] The State opposed the motion. On October 24, 2005, the district court denied the motion. This appeal followed.[4]

A guilty plea is presumptively valid, and a defendant carries the burden of establishing that the plea was not entered knowingly and intelligently.[5] Further, this court will not reverse a district court's

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[2]As stated above, the judgment of conviction was amended to reflect that appellant received 207 days of jail time credit.

[3]Due to the nature of the relief sought, we have construed this motion as a motion to withdraw guilty plea.

[4]Appellant also appealed from the district court's October 24, 2005 intermediate order denying appellant's "Motion for Change of Venue," in which appellant claimed Judge Mosley was biased against him. Appellant failed to demonstrate sufficient facts to overcome the presumption that Judge Mosley was not biased. See Goldman v. Bryan, 104 Nev. 644, 764 P.2d 1296 (1988). Accordingly, we conclude the district court did not err in denying this motion.

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

determination concerning the validity of a plea absent a clear abuse of discretion.[6] In determining the validity of a guilty plea, this court looks to the totality of the circumstances.[7]

In his motion, appellant claimed he should be allowed to withdraw his guilty plea because the district court sentenced him outside the term he bargained for in the plea agreement. However, our review of the record on appeal reveals that the plea agreement appellant signed informed appellant that while the State agreed to argue for a sentence of twelve to thirty-six months, the sentence available was between twelve and forty-eight months, and the sentence imposed was entirely at the district court's discretion. Further, at the plea entry hearing, the district court specifically advised appellant that it could sentence him to between twelve and forty-eight months and it was not bound by the parties' agreement to recommend twelve to thirty-six months. Appellant stated he understood this. Appellant was sentenced within the range he bargained for, and we conclude appellant's plea was therefore knowingly and intelligently entered.

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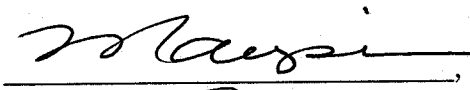
[6]Hubbard, 110 Nev. at 675, 877 P.2d at 521.

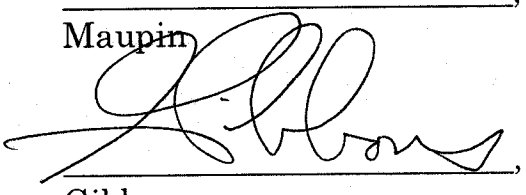
[7]State v. Freese, 116 Nev. 1097, 13 P.3d 442 (2000); Bryant, 102 Nev. 268, 721 P.2d 364.

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.[8] Accordingly, we

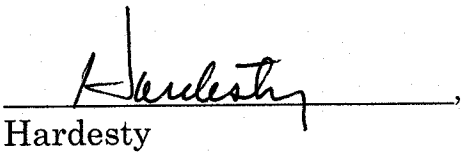
ORDER the judgment of the district court AFFIRMED.[9]



_____, J.
Maupin



_____, J.
Gibbons



_____, J.
Hardesty

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

[9]We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

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