

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE DAVID GARNER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46183

**FILED**

MAR 24 2006

JANETTE M. CLIFTON  
CLERK OF SUPREME COURT  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of robbery of a victim aged 60 or older. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant to a prison term of 2 to 5 years, with an equal and consecutive term for the elder enhancement.

Appellant argues that this court should treat his notice of appeal as the functional equivalent of a motion to withdraw his plea. As appellant concedes, this court

no longer permit[s] a defendant to challenge the validity of a guilty plea on direct appeal from the judgment of conviction. 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.<sup>1</sup>

Although filing a notice of appeal may indicate that an appellant is dissatisfied with the outcome, it does not necessarily follow that the appellant wishes to withdraw his plea. There are various issues

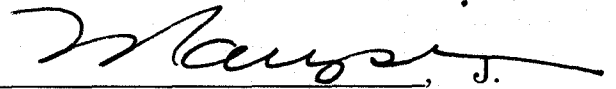
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<sup>1</sup>Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

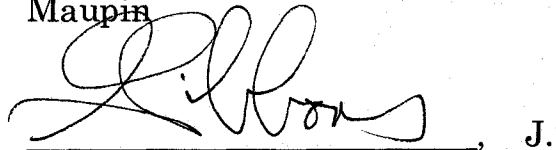
that may be raised in an appeal from a judgment of conviction, pursuant to a guilty plea.<sup>2</sup>

If appellant does, in fact, wish to withdraw his guilty plea, he may either file a motion to withdraw his plea in the district court or file a post-conviction petition for a writ of habeas corpus. Accordingly, we

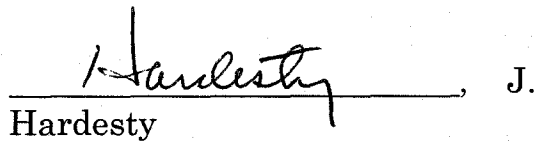
ORDER the judgment of conviction AFFIRMED.



Maupin



Gibbons



Hardesty

cc: Hon. Brent T. Adams, District Judge  
Washoe County Public Defender  
Attorney General George Chanos/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk

<sup>2</sup>See Franklin v. State, 110 Nev. 750, 751-52, 877 P.2d 1058, 1059 (1994) (citations omitted).