

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAWN LEWIS WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46518

SHAWN LEWIS WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46521

FILED

MAY 26 2006

ORDER OF AFFIRMANCE

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

These are consolidated appeals from two separate judgments of conviction. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.

Pursuant to plea agreements in two different cases, the district court convicted appellant Shawn White of five counts of conspiracy to commit robbery, five counts of robbery with the use of a deadly weapon, and one count of second-degree murder. Prior to sentencing, White joined codefendant Charles Walker's motion to withdraw the guilty pleas. The district court heard argument and denied White's motion. It subsequently sentenced White to serve multiple prison terms, including a term of life with the possibility of parole. This appeal follows.

White's sole contention is that the district court abused its discretion by denying his presentence motions to withdraw the guilty pleas. White specifically claims that the State's acceptance of the plea agreements was conditioned on both defendants entering pleas of guilty, and he asserts that codefendant Charles Walker pressured him into

entering pleas of guilty in both cases. However, other than White's assertion, the record on appeal is devoid of any evidence of coercion.

An order denying a presentence motion to withdraw a guilty plea is reviewable on direct appeal from the judgment of conviction as an intermediate order in the proceedings.¹ In reviewing the district court's determination, we 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.² If the motion to withdraw is based on a claim that the guilty plea was not entered voluntarily, knowingly, and intelligently, the appellant has the burden to substantiate the claim.³

In the written plea agreements, White acknowledged that he agreed to plead guilty, understood the consequences of the plea, understood the rights and privileges he waived by pleading guilty, and that he voluntarily signed the agreements after consulting with counsel. White further acknowledged that he was "not acting under duress or coercion" when he signed the agreements. White's counsel certified the written agreements, stating that to the best of their knowledge and belief White was competent, understood the charges and consequences of pleading guilty, and entered his pleas voluntarily. Nowhere in the written agreements did the parties stipulate that the State could withdraw and

¹NRS 177.045; Hart v. State, 116 Nev. 558, 562 n.2, 1 P.3d 969, 971 n.2 (2000) (citing Hargrove v. State, 100 Nev. 498, 502 n.3, 686 P.2d 222, 225 n.3 (1984)).

²Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

³Id.

proceed to a jury trial if either of the defendants decided not to enter a guilty plea.

During the district court's plea canvass, White acknowledged that he went over the agreements thoroughly with counsel, he understood the charges against him, and he freely and voluntarily entered his pleas of guilt. Before accepting White's pleas, the district court read each of the counts from the informations and White acknowledged that each count was correct. At no time during the plea canvass did either party indicate that the State's acceptance of the plea agreements was conditioned on both defendants entering pleas of guilty.

We also note that White received a substantial benefit from the agreements in that he was spared the possibility of a death sentence. Based on the totality of the circumstances, we conclude that White failed to carry his burden to demonstrate that his plea was involuntary. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

cc: Hon. Joseph T. Bonaventure, District Judge
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Special Public Defender David M. Schieck
Clark County Clerk