

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONTAE ANTWON SCOTT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46533

**FILED**

**MAY 02 2006**

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of burglary. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge. The district court sentenced appellant Dontae Antwon Scott to serve a prison term of 24 to 96 months.

Scott contends that the district court erred in denying his oral presentence motion to withdraw the guilty plea because he alleged a substantial reason for withdrawal and the State would not have been prejudiced. In particular, Scott informed the court that he was dissatisfied with his defense attorney because he only met with him once to discuss the plea offer and never explained the evidence in the case. We conclude that Scott's contention lacks merit.

The district court may grant a presentence motion to withdraw for any substantial reason that is fair and just.<sup>1</sup> "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

<sup>1</sup>State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969).

the plea, and we will not reverse the lower court's determination absent a clear showing of an abuse of discretion."<sup>2</sup>

We conclude that the district court did not abuse its discretion in denying the motion to withdraw the guilty plea.<sup>3</sup> The totality of the circumstances indicates that Scott's guilty plea was knowing and voluntary, and Scott's claim that he was dissatisfied with his defense attorney is belied by the record.<sup>4</sup> At the plea canvass and in the signed plea agreement, Scott advised the district court that he had discussed the elements of the charged crimes and the possible defenses with his attorney. Also, the signed plea agreement included an acknowledgement from Scott that he was satisfied with the services provided by his attorney. Finally, we note that Scott received a substantial benefit for the guilty plea in that the State dismissed several felony counts, including robbery with the use of a deadly weapon and conspiracy to commit robbery, and agreed not to oppose Scott's request that the sentence run concurrently with another criminal case. Accordingly, the district court acted within its discretion in denying the presentence motion to withdraw the guilty plea.

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<sup>2</sup>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)).

<sup>3</sup>We also reject Scott's argument that the judge's refusal to allow withdraw of the plea is tantamount to judicial coercion in the plea bargain. Scott has failed to present a cogent argument, and the legal authority he cites is inapposite. See Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987).

<sup>4</sup>Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

Having considered Scott's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

Maupin, J.

Maupin

Gibbons, J.

Gibbons

Hardesty, J.

Hardesty

cc: Hon. Lee A. Gates, District Judge  
Law Offices of Amy Chelini  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk