

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN SAMUEL BEAL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46859

FILED

MAY 25 2006

ORDER OF AFFIRMANCE

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

This is an appeal from an order of the district court denying appellant John Samuel Beal's motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

On November 14, 2005, Beal was convicted, pursuant to a guilty plea, of one count of attempted drawing and passing of a check without sufficient funds in drawee bank with intent to defraud. The district court sentenced Beal to a prison term of 12-32 months, suspended execution of the sentence, and placed him on probation for an indeterminate period not to exceed 3 years. Beal was ordered to pay \$11,730.78 in restitution. Beal did not pursue a direct appeal from the judgment of conviction and sentence.

On January 26, 2006, Beal filed a motion to withdraw his guilty plea in the district court. The State opposed the motion. The district court conducted a hearing, and on February 27, 2006, entered an order denying Beal's motion. This timely appeal followed.

Beal contends that the district court erred in denying his motion to withdraw his guilty plea. Specifically, Beal claims that he did not enter his guilty plea knowingly because his various pain medications

affected his ability to comprehend the proceedings. We conclude that Beal is not entitled to any relief.

A guilty plea is presumptively valid, and the defendant has the burden of establishing that the plea was not entered knowingly and intelligently.¹ To determine if a plea is valid, the court must consider the entire record and the totality of the facts and circumstances of a case.² A defendant is competent to enter a plea if he has (1) “sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding”; and (2) “a rational as well as factual understanding of the proceedings against him.”³ This court has stated that “[f]ollowing sentencing, a guilty plea may be set aside only to correct a manifest injustice.”⁴ This court will not reverse a district court’s determination concerning the validity of a plea absent a clear abuse of discretion.⁵

We conclude that the district court did not abuse its discretion in denying Beal’s motion. The district court determined that Beal’s claim

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

²See State v. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000); see also Mitchell v. State, 109 Nev. 137, 140-41, 848 P.2d 1060, 1061-62 (1993) (the district court “has a duty to review the entire record to determine whether the plea was valid. . . . [and] may not simply review the plea canvass in a vacuum”).

³Godinez v. Moran, 509 U.S. 389, 396 (1993) (quoting Dusky v. United States, 362 U.S. 402, 402 (1960)).

⁴Baal v. State, 106 Nev. 69, 72, 787 P.2d 391, 394 (1990); see also NRS 176.165.

⁵See Riker v. State, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995); Hubbard, 110 Nev. at 675, 877 P. 2d at 521.


was belied by the record. The district court also noted, and our review of the record reveals, that Beal was thoroughly canvassed prior to the entry of his plea. The transcript of Beal's plea canvass indicates that he had a rational and factual understanding of the proceedings and was able to appropriately and coherently respond to the district court's questions. Beal acknowledged that he read, signed, and understood the written guilty plea agreement, which included the proviso that he was "not now under the influence of any . . . controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement." Moreover, both in the proceedings below and on appeal, Beal failed to specify what he did not comprehend or articulate how his medications prevented him from entering a knowing plea. Therefore, we conclude that there was no manifest injustice and that Beal's contention is without merit.

Accordingly, we

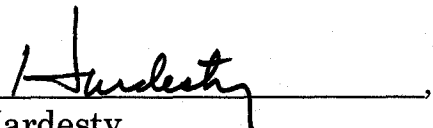
ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Lee A. Gates, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk