

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY JAMES BENNETT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

GREGORY JAMES BENNETT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46913

**FILED**

SEP 12 2006

No. 46914

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

ORDER OF AFFIRMANCE

These are consolidated appeals from judgments of conviction, pursuant to guilty pleas, of eight counts of obtaining and/or using the identification information of another, two counts of burglary, one count of possession of a credit card without the cardholder's consent, two counts of possession of a forged instrument, and one count of possession of child pornography. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

The district court sentenced appellant Gregory Bennett to numerous consecutive prison terms totaling 20.66-95 years. Additionally, Bennett was sentenced to numerous concurrent prison terms totaling 80-320 months.

First, Bennett argues that the district court erred in denying his motion to withdraw his pleas. Bennett contends his pleas were involuntary because he was "under the assumption that my co-defendant [wife] would be released from custody."

"A district court may, in its discretion, grant a defendant's [presentence] motion to withdraw a guilty plea for any 'substantial reason' if it is 'fair and just.'"<sup>1</sup> In considering whether a defendant has "advanced a substantial, fair, and just reason to withdraw a [guilty] plea, the district court must consider the totality of the circumstances to determine whether the defendant entered the plea voluntarily, knowingly, and intelligently."<sup>2</sup>

During the canvass, Bennett informed the district court that he had read and understood the plea agreement, that he had signed the plea agreement, and that he believed that entering a plea pursuant to the agreement was in his best interest. Bennett informed the district court he had no questions about the agreement, and was entering the agreement of his own free will. The plea agreement does not contain any reference to Bennett's co-defendant being released from custody as a condition of the guilty plea. Additionally, Bennett informed the court that no promises were made to induce him into pleading guilty. Based on the totality of the circumstances, we conclude that the district court correctly found that appellant's plea was validly entered.<sup>3</sup>

Next, Bennett contends the district court abused its discretion by "considering previous cases in which Bennett was either found not guilty or which were dismissed by another district court judge." This

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<sup>1</sup>Woods v. State, 114 Nev. 468, 475, 958 P.2d 91, 95 (1998) (quoting State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969)); see also NRS 176.165.


<sup>2</sup>Crawford v. State, 117 Nev. 718, 722, 30 P.3d 1123, 1125-26 (2001).

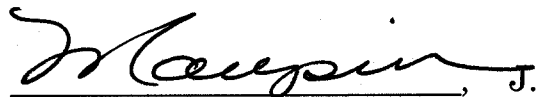
<sup>3</sup>Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (holding that this court presumes that the lower court correctly assessed the validity of the plea, and that the lower court's determination will not be overturned absent a clear showing of an abuse of discretion).

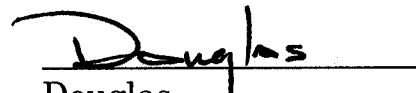
claim is belied by the record.<sup>4</sup> The district court asked the State about the relevance of the other case, and no further discussion of the matter occurred.

Additionally, Bennett argues the district court abused its discretion by "ordering a hearing in chambers to reconsider the sentence without the Defendant being present and not having the proceedings recorded." Bennett also contends the district court abused its discretion by not ordering proportionate sentences as compared to the other defendants. Bennett provides no argument, law or citation to support his contentions. Where a party fails to support its assertions with legal authority, this court need not consider the argument.<sup>5</sup> Therefore we,

ORDER the judgment of convictions AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

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

<sup>5</sup>See NRAP 28(a)(4).

cc: Hon. Jerome Polaha, District Judge  
Attorney General George Chanos/Carson City  
Michael V. Roth  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk