

IN THE SUPREME COURT OF THE STATE OF NEVADA

TY KRISTIAN COE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47383

FILED

NOV 15 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of felony driving under the influence. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge. The district court sentenced appellant Ty Kristian Coe to a prison term of 26 to 70 months and ordered Coe to pay a fine of \$5,000.00.

Coe's sole argument on appeal is that this court should treat his notice of appeal as the functional equivalent of a motion to withdraw his plea. As Coe 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.¹

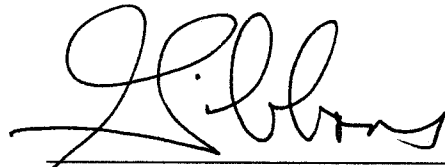
Although filing a notice of appeal may indicate that an appellant is dissatisfied with the outcome, it does not necessarily follow that the appellant wishes to withdraw his plea. There are various issues


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

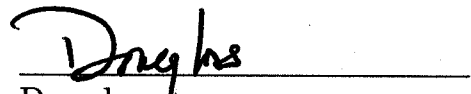
that may be raised in an appeal from a judgment of conviction, pursuant to a guilty plea.² Coe, however, does not assert such issues in this appeal.

If Coe 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.


_____, J.
Gibbons


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Steven P. Elliott, District Judge
Washoe County Public Defender
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

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