

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEREMY RICHARD PERSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49726

JEREMY RICHARD PERSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49727

JEREMY RICHARD PERSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49728

FILED

DEC 06 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Alvarado
DEPUTY CLERK

These are appeals from judgments of conviction entered pursuant to guilty pleas. First Judicial District Court, Storey County; William A. Maddox, Judge.

In Docket Number 49726, appellant Jeremy Richard Person was convicted of one count of felony possession of a controlled substance and sentenced to serve a prison term of 12 to 30 months. In Docket Number 49727, Person was convicted of one count of obtaining or possessing a credit card without the consent of the cardholder and sentenced to serve a prison term of 12 to 30 months. In Docket Number 49728, Person was convicted of one count of possession of stolen property and was sentenced to serve a prison term of 15 to 60 months. The district

court ordered the sentences imposed in the three cases to run concurrently. Person filed these timely appeals. We have elected to consolidate these appeals for disposition.¹

Person contends that the district court abused its discretion in denying his presentence motions to withdraw the guilty pleas. In particular, Person contends that his guilty pleas were invalid because "he only entered the plea[s] because he had the expectation of attending drug court and then having his charges dismissed." Additionally, Person contends that his pleas were unknowing because defense counsel never advised him of the possible defenses to the criminal charges. We conclude that Person's contentions lack merit.

"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.'"² In deciding 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.³ A defendant has no right, however, to withdraw his plea merely because he moves to do so prior to sentencing or because the State failed to

¹See NRAP 3(b).

²Woods 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.

³See Crawford v. State, 117 Nev. 718, 721-22, 30 P.3d 1123, 1125-26 (2001).

establish actual prejudice.⁴ On appeal from 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.⁵

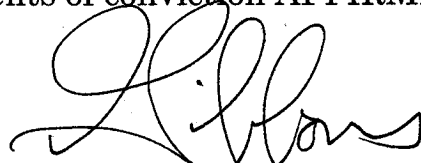
In this case, the totality of circumstances indicates that the guilty pleas were knowing, voluntary and intelligent. In each written plea agreement, Person was advised of the potential sentence and that his sentence was to be determined by the court within the limits prescribed by statute. Moreover, Person acknowledged, in each written plea agreement, that he had discussed possible defenses with his attorney and that he was satisfied with the services provided by his attorney. At the plea canvasses, the district court informed Person of the consequences of the guilty pleas, and Person advised the court that he had discussed the cases with defense counsel and was satisfied with the representation provided by his attorneys. Finally, we note that the record indicates that Person was in fact sentenced to the drug court program in all three cases, but ultimately received concurrent prison terms after he failed to complete the drug treatment program. Accordingly, the district court did not abuse its discretion in denying the presentence motions to withdraw the guilty pleas.


⁴See Hubbard v. State, 110 Nev. 671, 675-76, 877 P.2d 519, 521 (1994).

⁵Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

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

ORDER the judgments of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. William A. Maddox, District Judge
Kay Ellen Armstrong
Attorney General Catherine Cortez Masto/Carson City
Storey County District Attorney
Storey County Clerk