

IN THE SUPREME COURT OF THE STATE OF NEVADA

SOLOMON M. BROOKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50991

FILED

JAN 22 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Solomon M. Brooks's post-conviction motion to withdraw his guilty plea and, in the alternative, modify his sentence. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

On September 13, 2007, Brooks was convicted, pursuant to a guilty plea, of one count each of battery with the use of a deadly weapon resulting in substantial bodily harm and attempted robbery.¹ The district court sentenced Brooks to serve two consecutive prison terms of 26-120 months and 16-72 months. Brooks's untimely direct appeal was dismissed by this court due to a lack of jurisdiction. Brooks v. State, Docket No. 50380 (Order Dismissing Appeal, April 9, 2008).

¹Brooks was initially charged with one count each of robbery with the use of a deadly weapon, battery with the use of a deadly weapon, attempted murder with the use of a deadly weapon, and battery with the intent to commit a crime.

On October 15, 2007, Brooks filed a motion to withdraw his plea and, in the alternative, modify his sentence in the district court. The State opposed the motion. Brooks filed a supplement to the motion. The district court heard arguments from counsel and, on December 27, 2007, entered an order denying Brooks's motion. This timely appeal followed.

Brooks contends that the district court abused its discretion by denying his post-conviction motion to withdraw his guilty plea. Specifically, Brooks claims that he "was given five minutes before arraignment court to read his guilty plea agreement and was told to sign it or he was going to get 40 years." Brooks asserts that by firing his initial attorney after his arraignment and prior to sentencing, "he was in effect asserting that he did not understand." We conclude that Brooks is not entitled to relief.²

"Following sentencing, a guilty plea may be set aside only to correct a manifest injustice." Baal v. State, 106 Nev. 69, 72, 787 P.2d 391, 394 (1990); see also NRS 176.165. "A guilty plea will be considered properly accepted if the trial court sufficiently canvassed the defendant to determine whether the defendant knowingly and intelligently entered into

²Brooks also claims that he "was precluded from correcting an erroneous rendition of the facts which supported the entry of conviction and the imposition of the Court's sentence." Brooks, however, does not explain how this claim relates to the validity of his guilty plea and we decline to address it. See Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").

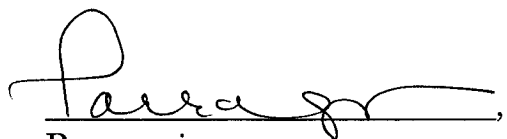
the plea.” See id. A guilty plea is presumptively valid, and the defendant has the burden of establishing that the plea was not entered knowingly and intelligently. See Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). 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. See State v. Freese, 116 Nev. 1097, 1105-06, 13 P.3d 442, 448 (2000); see also Mitchell v. State, 109 Nev. 137, 141, 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. . . . [The district court] may not simply review the plea canvass in a vacuum.”). This court will not reverse a district court’s determination concerning the validity of a plea absent a clear abuse of discretion. See Riker v. State, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995); Hubbard, 110 Nev. at 675, 877 P. 2d at 521.

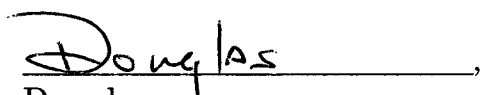
We conclude that Brooks has failed to substantiate his claim that his guilty plea was not entered knowingly and intelligently or that a manifest injustice entitles him to relief. In denying Brooks’s motion, the same district court judge that presided over his arraignment, plea canvass, and sentencing stated that she considered the “totality of the information and evidence.” The district court also found Brooks’s claim that he lacked understanding, knowledge of his rights, and an awareness of the potential consequences to be belied by the record. Additionally, our review of the record on appeal reveals that Brooks was thoroughly canvassed by the district court prior to the entry of his plea, and we note that he informed the district court that he read and signed the written guilty plea agreement, discussed the matter with counsel, understood the

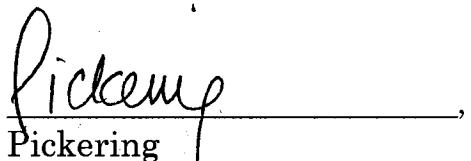
consequences of the plea deal, and was not coerced or threatened. Therefore, we conclude that the district court did not abuse its discretion in denying Brooks's post-conviction motion to withdraw his guilty plea.

Having considered Brooks's contentions and concluded that they are without merit, we

ORDER the judgment of the district court AFFIRMED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. David B. Barker, District Judge
Dan M. Winder
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk