

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL JAMES OERY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52850

FILED

APR 22 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of robbery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Michael James Oery to serve two consecutive prison terms of 24 to 60 months.

Oery asks us to remand his case to the district court “with instructions to allow [him] a meaningful hearing on a post-sentence motion to withdraw guilty plea.” He concedes that 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.

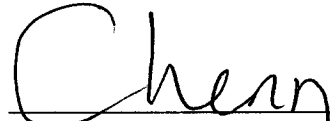
Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).


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 guilty plea. There are various claims that may be raised on direct appeal from a judgment of conviction

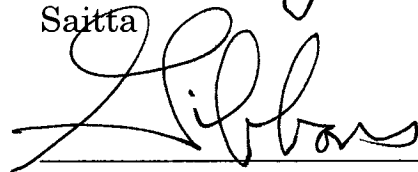
that was entered pursuant to a guilty plea. See Franklin v. State, 110 Nev. 750, 751-52, 877 P.2d 1058, 1059 (1994), overruled on other grounds by Thomas v. State, 115 Nev. 148, 150, 979 P.2d 222, 223-24 (1999). Oery has not asserted any of these claims in his appeal. If Oery does in fact wish to withdraw 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 in the district court.

Having reviewed the record on appeal, and for the reasons set forth above, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Steven R. Kosach, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk