

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH DARRYL MESSERLI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53235

**FILED**

**SEP 25 2009**

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

ORDER OF AFFIRMANCE

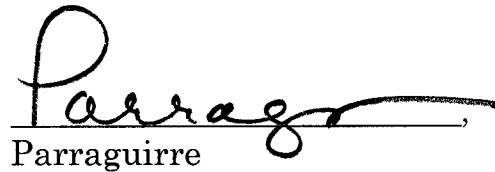
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted sexual assault. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge. The district court sentenced appellant Joseph Darryl Messerli to serve a prison term of 24-60 months.

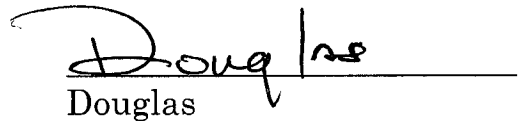
Messerli contends that his guilty plea was not entered knowingly and voluntarily. Specifically, Messerli claims that he was innocent of the crime and "confused" during the proceedings below. Messerli states that "[b]ecause this Court will not, on direct appeal, consider a challenge to the validity of a guilty plea, this Court should remand this matter back to the district court with instructions to allow [him] to withdraw his plea." We disagree.

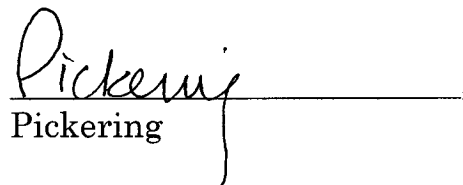
As Messerli acknowledges, this court has generally held that challenges to the validity of a guilty plea must be raised in the district court in the first instance by either filing a motion to withdraw the guilty plea or commencing a post-conviction proceeding pursuant to NRS chapter 34. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also O'Guinn v. State, 118 Nev. 849, 851-52, 59 P.3d 488, 489-90 (2002). Messerli has failed to provide this court with any reason to depart from

this policy in his case. Therefore, because the record does not indicate that Messerli challenged the validity of his guilty plea in the district court, his claim is not appropriate for review on direct appeal from the judgment of conviction and we need not address it. Bryant, 102 Nev. at 272, 721 P.2d at 368. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

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