

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONNA RITA MCCARTNEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53467

FILED

FEB 03 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
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ORDER OF AFFIRMANCE

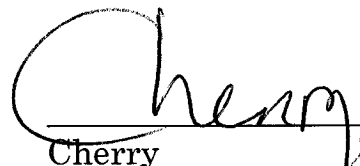
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of living from the earnings of a prostitute. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.


Appellant Donna Rita McCartney challenges the denial of her presentence motion to withdraw the guilty plea, see NRS 176.165, which was based on claims that (1) she only pleaded guilty to spare her codefendant-son from a trial and he has since moved to withdraw his guilty plea, and (2) newly discovered evidence—the victim’s recantation—rendered her plea a “mistake” based on a “misconception” and thus is invalid. We presume that the district court correctly assessed the validity of a plea on a motion to withdraw the plea and will not reverse its decision absent an abuse of discretion. Molina v. State, 120 Nev. 185, 191, 87 P.3d 533, 538 (2004).


The district court conducted a hearing and found that McCartney entered her guilty plea knowingly and voluntarily and that the victim’s recantation, offered several months after the entry of McCartney’s plea, did not amount to newly discovered evidence or require the withdrawal of her plea. McCartney has failed to provide a substantial reason upon which the district court should have granted the motion to

withdraw. See Woods v. State, 114 Nev. 468, 475, 958 P.2d 91, 95 (1998) (“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.”) (internal quotations omitted); Molina, 120 Nev. at 190, 87 P.3d at 537 (defendant bears the burden of proving that plea is invalid). We further note that a review of the record reveals that McCartney was thoroughly canvassed and informed about her rights prior to the entry of her plea. See Crawford v. State, 117 Nev. 718, 722, 30 P.3d 1123, 1126 (2001) (“A thorough plea canvass coupled with a detailed, consistent, written plea agreement supports a finding that the defendant entered the plea voluntarily, knowingly, and intelligently.”). Therefore, we conclude that the district court did not abuse its discretion by denying McCartney’s presentence motion to withdraw her guilty plea. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. James M. Bixler, District Judge
Robert E. Glennen III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk