

IN THE SUPREME COURT OF THE STATE OF NEVADA

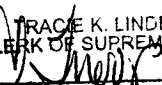
STEVEN SCOTT LARSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53472

FILED

OCT 07 2009

ORDER OF AFFIRMANCE

TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of felony driving under the influence. Second Judicial District Court, Washoe County; Robert H. Perry, Judge. The district court sentenced appellant Steven Scott Larson to serve a prison term of 24 to 60 months.

First, Larson contends that the district court erred in denying his counsel's repeated motions to withdraw. Specifically, Larson claims that communication between him and his appointed counsel had completely broken down and that his constitutional right to conflict free representation was violated.

Larson waived any challenge to the district court's denial of his counsel's motions to withdraw. This court has repeatedly stated that, generally, the entry of a guilty plea waives any right to appeal from events occurring prior to the entry of the plea. See Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975). "[A] guilty plea represents a break in the chain of events which has preceded it in the criminal process. . . . [A defendant] may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the

guilty plea.” Id. (quoting Tollett v. Henderson, 411 U.S. 258, 267 (1973)) (first alteration in original). Additionally, there is no indication in the record that Larson expressly preserved this issue for review on appeal. See NRS 174.035(3). Moreover, in the written guilty plea agreement and at the plea canvass, Larson indicated that he was satisfied with his counsel’s representation. Accordingly, we decline to address this claim on appeal.

Second, Larson contends that Judge Kosach improperly participated in the plea negotiations between himself and the State in violation of this court’s decision in Cripps v. State, 122 Nev. 764, 137 P.3d 1187 (2006).¹

In Cripps, this court adopted a bright-line rule prohibiting the district court from participating in plea negotiations between the State and the defense in a criminal prosecution because such participation carries an inherent risk of improper judicial coercion of a guilty plea. Id. at 770, 137 P.3d at 1191. The single exception to this rule permits the district court to indicate whether it would be inclined to follow the parties’ sentencing recommendation. Id. at 770-71, 137 P.3d at 1191. “[J]udicial involvement in the plea negotiations may constitute harmless error.” Id. at 771, 137 P.3d at 1192; see also NRS 178.598 (“Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.”). When conducting harmless error review, we focus on “whether the district court’s [erroneous participation] may reasonably be viewed as having been a material factor affecting the defendant’s decision

¹Judge Kosach presided over the hearing at which Larson alleges the Cripps violation occurred.

to plead guilty.” Cripps, 122 Nev. at 771, 137 P.3d at 1192 (alteration in original) (internal quotation marks omitted). “The appellant, however, will carry the burden of establishing that any reversible error occurred.” Id.

Here, Larson told Judge Kosach that he wanted another week to consider the State’s plea offer, and Judge Kosach asked the State what the offer was, whether the offer was still on the table, and what Larson’s deadline for accepting it was. Judge Kosach then explained Larson’s choice to either accept the State’s offer or proceed to trial and encouraged Larson to have confidence in his counsel’s ability to represent him at trial. We conclude that Larson has failed to demonstrate that the district court participated in the plea negotiations or coerced his guilty plea.

Having considered Larson’s contentions and concluded that they are either waived or lack merit, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.
Cherry

Douglas, J.
Douglas

Gibbons, J.
Gibbons

cc: Hon. Robert H. Perry, District Judge
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