


IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN SCOTT DAVIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54697

FILED

JUL 15 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to withdraw a guilty plea.¹ Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

In his motion filed on September 2, 2009, appellant challenged the validity of his guilty plea. A guilty plea is presumptively valid, and a defendant carries the burden of establishing that the plea was not entered knowingly and intelligently. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986). In determining the validity of a guilty plea, this court looks to the totality of the circumstances. State v. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000); Bryant, 102 Nev. at 271, 721 P.2d at 367.

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

First, appellant claimed that his plea was invalid because of an “unknown” conflict of interest with his trial counsel resulting from trial counsel’s failure to research the law regarding felony driving under the influence. This claim fell short of demonstrating a conflict of interest, Cuyler v. Sullivan, 446 U.S. 335, 348 (1980); Clark v. State, 108 Nev. 324, 326, 831 P.2d 1374, 1376 (1992), and thus, appellant failed to demonstrate that his plea was invalid in this regard.

Second, appellant claimed that his plea was invalid because his trial counsel failed to assert that the State impermissibly delayed bringing charges against him. Appellant asserted that the offense was committed on February 18, 2007, but he was not charged until July 29, 2008. Appellant failed to carry his burden in this regard. Because the charge was filed within the time limits of NRS 171.085(2), appellant failed to demonstrate that his trial counsel’s actions rendered his plea invalid. Hill v. Lockhart, 474 U.S. 52, 58-9 (1985); Kirksey v. State, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996). Further, we note that the criminal complaint was filed on June 22, 2007.

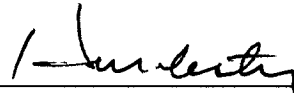
Third, appellant appeared to claim that the prior felony convictions were not presented at sentencing. Appellant may not challenge errors occurring at sentencing in a motion to withdraw a guilty plea as only issues relating to the validity of the plea are permissible. Hart v. State, 116 Nev. 558, 564, 1 P.3d 969, 973 (2000). The record reveals that appellant had 2 prior felony driving under the influence convictions.

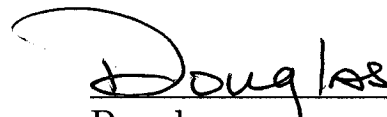
Finally, appellant claimed that the plea bargain should be enforced. Appellant failed to support this claim with specific facts or

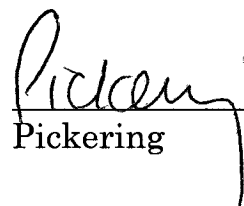
cogent argument, and thus, the district court did not err in denying this claim. Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Donald M. Mosley, District Judge
Kevin Scott Davis
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²To the extent that appellant attempted to appeal the denial of a motion to dismiss charges, we conclude that the district court did not abuse its discretion in denying the motion.

We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.