

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREW J. HILFORD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55155

FILED

JAN 13 2011

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK


This is an appeal from an order of the district court denying appellant's June 5, 2009, motion to withdraw his guilty plea and June 5, 2009, post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

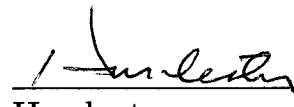
Appellant first argues that the district court erred in finding that appellant had not demonstrated by a preponderance of the evidence that he had requested a direct appeal. This court will defer to the district court's factual findings if supported by substantial evidence and not clearly erroneous. See Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). Appellant's trial counsel specifically testified at the evidentiary hearing that appellant did not request an appeal. The only contrary evidence to which appellant points is an affirmative response by counsel when asked whether it was "possible" that appellant had requested an appeal. As appellant must demonstrate by a preponderance of the evidence that he affirmatively requested an appeal, evidence that it was merely possible that he did so is insufficient to warrant relief. See Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004); Thomas v. State, 115 Nev. 148, 151, 979 P.2d 222, 224 (1999). Accordingly, we conclude that the district court did not err in denying this claim.

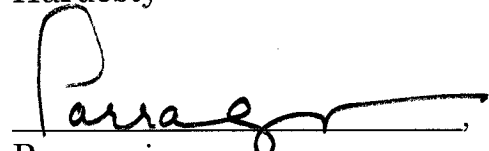
Appellant also argues that the district court erred in denying his motion to withdraw his guilty plea. A guilty plea is presumptively valid, and appellant carried the burden of establishing that the plea was not entered knowingly and intelligently. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). In determining the validity of a guilty plea, a 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. Appellant's claim that he was coerced into pleading guilty is belied by the record, which shows that he was not promised a specific treatment or placement in exchange for his plea. See Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Accordingly, we conclude that the district court did not err in denying appellant's motion.¹

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

¹To the extent that appellant argues he did not meet the equitable-laches factors applied in Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000), we note that the district court did not deny appellant's motion based on equitable laches. Accordingly, no relief is warranted on this ground.

cc: Hon. Jackie Glass, District Judge
Law Office of Betsy Allen
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk