IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE STEVE JACKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55168

FILED

JUL 14 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY H. Ingram
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted burglary and robbery. Eighth Judicial District Court, Clark County; Doug Smith, Judge. Appellant Willie Steve Jackson was adjudicated a habitual criminal based on seven prior felony convictions and was sentenced to serve two consecutive terms of life in prison with the possibility of parole.

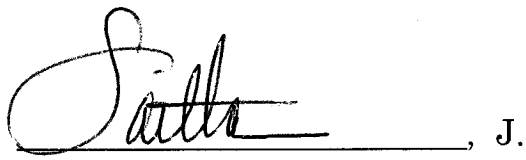
Jackson first contends that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea because it was involuntary and unknowing on three grounds: (1) the district court did not consider why Jackson entered his plea or the effect of his mental condition on his decision to plead guilty, (2) he had a history of mental health problems, and (3) counsel failed to adequately protect his interests. A district court may grant a presentence motion to withdraw a guilty plea "for any substantial, fair, and just reason," Crawford v. State, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001); see Molina v. State, 120 Nev. 185, 191, 87 P.3d 533, 537 (2004); see also NRS 176.165. Guilty pleas are presumptively valid and the defendant bears a heavy burden of showing that he did not enter his plea knowingly, intelligently, or

voluntarily. Molina, 120 Nev. at 190, 87 P.3d at 537. We review the district court's ruling for an abuse of discretion, Crawford, 117 Nev. at 721, 30 P.3d at 1125. Jackson's argument is cursory, but a review of the record shows that the district court's plea canvass was sufficient and that Jackson was competent to enter a plea. The record also shows that Jackson was asked if he understood the constitutional rights he was waiving by pleading guilty and he was advised of the elements of the offenses and the possible sentences under the habitual criminal statute. Jackson responded that he understood those matters. Accordingly, we conclude that the district court did not abuse its discretion by denying the presentence motion to withdraw the guilty plea.

Second, Jackson argues that his sentence was "inappropriate and unfair" because his crime was in reality a misdemeanor petty larceny and he therefore received a life sentence for a crime that never occurred, his convictions are redundant and therefore he was sentenced to two life sentences for one act, and he suffered from mental health problems. We disagree. Jackson absconded with several items from a Family Dollar Store and when approached by a security guard, pulled out a pair of scissors and told the security guard, "Is it worth [your] life?" Contrary to Jackson's claim, his crime was not a mere petty larceny. Jackson's criminal history included seven felonies, including drug and property related crimes, attempted burglary, and a domestic violence offense. Further, attempted burglary and robbery are not redundant offenses, as the gravamen of each offense is not the same, and it cannot be said that the Legislature did not intend multiple convictions in this instance see State of Nevada v. Dist. Ct., 116 Nev. 127, 136-37, 994 P.2d 692, 698 (2000), and we have held that a defendant may be convicted of burglary

and the subsequent felony, in this case, robbery, see Stowe v. State, 109 Nev. 743, 745-46, 857 P.2d 15, 16-17 (1993). And during sentencing, Jackson and counsel advised the district court that Jackson suffered from mental health problems; therefore, that matter was before the district court for its consideration. We conclude that the district court did not abuse its discretion in sentencing Jackson as it did. See Martinez v. State, 114 Nev. 735, 737-38, 961 P.2d 143, 145 (1998). We therefore

ORDER the judgment of conviction AFFIRMED.[1]



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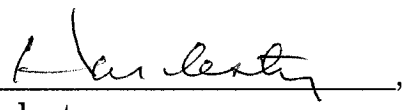

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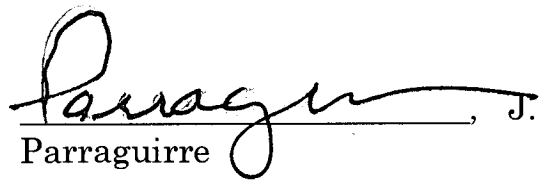

_____, J.
Parraguirre

cc: Hon. Doug Smith, District Judge
The Law Office of Dan M. Winder, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

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[1]We note that counsel attached the appendix to the opening brief in violation of NRAP 30(c), which requires the appendix to be bound separately from the briefs. We further observe that the appendix is not accompanied by a cover, as required by NRAP 30(c)(3), or an index, as required by NRAP 30(c)(2). We caution counsel to comply with the rules of appellate procedure in the future.