

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY ELBERT HUDSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55624

FILED

SEP 29 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Angerson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a no contest plea, of attempted sexual assault. Seventh Judicial District Court, Lincoln County; Steve L. Dobrescu, Judge.


Appellant Jerry Elbert Hudson challenges the district court's denial of his presentence motion to withdraw his no contest plea. Hudson asserts that his plea was not entered knowingly and intelligently and his counsel was ineffective for failing to prepare for trial and for misrepresenting the likelihood of being able to cross-examine the victim on prior false allegations of rape.

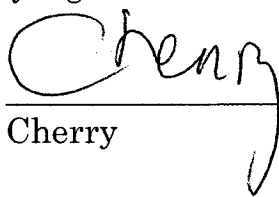
A district court may grant a presentence motion to withdraw a guilty plea for any substantial, fair, and just reason. Crawford v. State, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001). When reviewing the district court's determination on a motion to withdraw a guilty plea, we presume that the district court correctly assessed the validity of a plea and will not reverse its determination absent an abuse of discretion. See Molina v. State, 120 Nev. 185, 191, 87 P.3d 533, 538 (2004). When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of

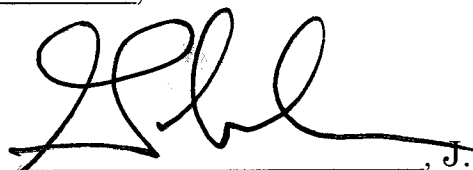
the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

The district court found that the record clearly demonstrated that Hudson knowingly and intelligently entered his no contest plea. See Crawford, 117 Nev. at 722, 30 P.3d at 1125-26 (district court must consider the totality of the circumstances when determining the validity of a plea). The district court also found that counsel's preparation for trial was not deficient and that counsel made no misrepresentations regarding the likelihood of being able to cross-examine the victim on the prior allegations. See Strickland v. Washington, 466 U.S. 668, 687-88 (1984) (establishing two-part test for ineffective assistance of counsel); Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting Strickland test). The district court's findings are supported by substantial evidence and are not clearly erroneous, and Hudson has not demonstrated that the district court erred as a matter of law. Therefore, we conclude that the district court did not abuse its discretion in denying the motion to withdraw the plea, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Cherry


_____, J.
Gibbons

cc: Hon. Steve L. Dobrescu, District Judge
Lincoln Co. Clerk
Dylan V. Frehner
Attorney General/Carson City
Lincoln County District Attorney