

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHANNON SCOTT WATSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56001

FILED

SEP 29 2010

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of grand larceny. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Appellant Shannon Scott Watson claims that the district court erred by denying his presentence motion to withdraw his guilty plea. Watson claims that the State stipulated to the withdrawal and the district court used an incorrect standard when resolving the motion. Although the record indicates that the State agreed to allow Watson to withdraw his guilty plea, it is within the district court's discretion to grant or deny such a motion. See Crawford v. State, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001). A district court may grant a presentence motion to withdraw a guilty plea for any substantial, fair, and just reason, and this court will not reverse the district court's determination absent a showing of abuse of discretion. Id.

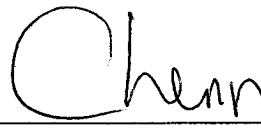
Watson orally moved to withdraw his guilty plea at the beginning of his sentencing hearing, arguing that he was not aware that he pleaded guilty to a felony offense and that, based on the value of the stolen item, he should only be subject to sentencing for a misdemeanor


rather than a felony. The district court judge entertained argument on the motion, indicated that he had reviewed the transcript of the plea hearing and the plea bargain agreement, and denied the motion, finding that there were sufficient grounds to go forward with sentencing. During argument on the motion, counsel reminded the district court judge that he had to consider the totality of the circumstances when resolving the motion. See id. at 721-722, 30 P.3d at 1125-26. Watson's claim that he was not aware that he was pleading guilty to a felony offense is belied by the record. Further, the district court clarified that Watson was subject to sentencing for felony grand larceny because, although the value of the stolen item was not at least \$250, see NRS 205.220, Watson pleaded guilty to the category C felony of grand larceny in exchange for the State dismissing a charge of burglary, a felony for which the value of the stolen item was of no importance. Watson has not demonstrated that the district court failed to consider the totality of the circumstances or abused its discretion when denying his motion to withdraw his plea. Therefore, we affirm the denial of the motion.

Watson also claims that his plea is invalid because the record does not demonstrate that he understood all of the elements of the offense and because the written plea agreement was not signed until nine days after the plea canvass. Watson did not raise these arguments as a basis for withdrawing his plea below and therefore these claims are not properly raised in this appeal. See Franklin v. State, 110 Nev. 750, 877 P.2d 1058 (1994) (challenges to the validity of a guilty plea must be raised in the district court in the first instance), overruled on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999). Therefore, we decline to address the merits of these claims.

We conclude that Watson has failed to demonstrate that he is entitled to relief, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Robert W. Lane, District Judge
Nye Co. Clerk
Attorney General/Carson City
Gibson & Kuehn
Nye County District Attorney/Pahrump