

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAWSON GUY STEVE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56550

FILED

JUN 08 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

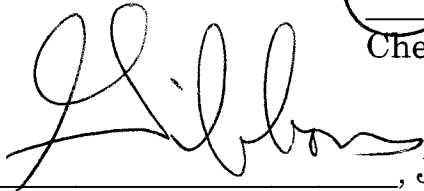
This is an appeal from a judgment of conviction, pursuant to a plea of nolo contendere, of battery with the use of a deadly weapon and burglary. Sixth Judicial District Court, Lander County; Richard Wagner, Judge.

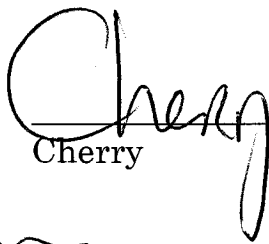
Appellant Lawson Guy Steve contends that the district court erred by denying his presentence motion to withdraw his guilty plea because the district court was involved in the plea negotiations in violation of this court's holding in Cripps v. State, 122 Nev. 764, 137 P.3d 1187 (2006). We disagree.


Immediately after the plea negotiations were completed, the district court stated that it had participated in the negotiations in an off-the-record discussion and agreed to impose concurrent sentences. The district court clearly erred by not recording its discussion with counsel. See id. at 770, 137 P.3d at 1191 (expressly prohibiting all off-the-record discussions between the judge and the parties regarding plea negotiations). We conclude, however, that Steve has failed to demonstrate that any reversible error occurred. See id. at 771, 137 P.3d at 1192. Although the district court failed to make a record of its participation, the record before this court does not indicate that its participation was

improper. See id. at 770-71, 137 P.3d at 1191 (allowing the court to express whether it is inclined to follow the parties' sentencing recommendation). Accordingly, there was no "erroneous participation" that could have been "reasonably . . . viewed as having been a material factor affecting [Steve's] decision to plead guilty." Id. at 771, 137 P.3d at 1192 (quoting U.S. v. Daigle, 63 F.3d 346, 349 (5th Cir. 1995)) (discussing the applicable harmless-error inquiry), and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Cherry


_____, J.
Pickering

cc: Hon. Richard Wagner, District Judge
Steve E. Evenson
Attorney General/Carson City
Lander County District Attorney
Clark County District Attorney
Lander County Clerk