

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARLOS VELEZ A/K/A CARLOS
VALEZ,
Appellants,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56852

FILED

JUN 08 2011

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

ORDER OF AFFIRMANCE

This is an appeal from an order of revocation of probation and amended judgment of conviction. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

Following plea negotiations, the State charged appellant Carlos Velez with first-degree kidnapping with the use of a deadly weapon and two counts of conspiracy to commit burglary. On September 10, 2008, the district court convicted Velez, pursuant to a guilty plea, of the conspiracy counts, suspended the sentence, and placed Velez on three years of probation. In accordance with the plea agreement, the district court stayed adjudication of the kidnapping count. The plea agreement permitted Velez to plead to disorderly conduct upon successful completion of probation. Velez did not appeal.


On June 17, 2010, the State filed a motion to revoke Velez's probation and adjudicate the kidnapping charge, noting that Velez had three new pending felony cases. Velez filed an opposition and countermotion to withdraw his guilty plea. On August 2, 2010, the court held an evidentiary hearing and denied Velez's motion to withdraw his plea. This appeal followed.


In its review of the totality of the circumstances of Velez's plea, the district court noted that: (1) the plea deal was extraordinarily

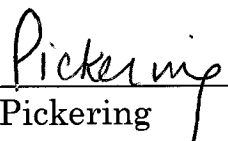
favorable to Velez; (2) Velez's privately-retained counsel who negotiated the deal testified convincingly that he explained the deal many times to Velez; (3) Velez contracted with an immigration attorney to assist him in constructing a plea deal that would avoid immigration consequences; (4) Velez's claim to have feeble English-language skills was belied by the record. The district court thus concluded that Velez knowingly and intelligently entered the plea agreement with full comprehension of the severe consequences that would befall him if he failed to complete probation. Under these circumstances, we conclude that the district court did not abuse its discretion.¹ See Crawford v. State, 117 Nev. 718, 721-22, 30 P.3d 1123, 1125-26 (2001).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

¹The State argues that, under the unusual facts of this case, the district court should have used the stricter, post-sentencing "manifest injustice" standard in evaluating Velez's motion. See NRS 176.165; Baal v. State, 106 Nev. 69, 72, 787 P.2d 391, 394 (1990). Because Velez's claim fails even under the more relaxed standard used by the district court, we do not address the State's contention.

cc: Hon. Kenneth C. Cory, District Judge
Eric Palacios & Associates
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk