

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOEL CRUZ FLORES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35190

FILED

MAY 10 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of trafficking in a controlled substance. The district court sentenced appellant to twenty-four (24) to eighty-four (84) months in the Nevada State Prison.

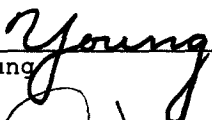
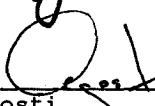
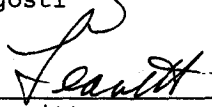
Appellant first contends the district court erroneously denied his motion to substitute new counsel. The motion was made minutes before the sentencing hearing and was denied by the court because new counsel was unprepared to proceed with sentencing. WDCR 23(4) provides, in pertinent part, "Except for good cause shown, no application for withdrawal or substitution shall be granted if a delay of the trial or of the hearing of any other matter in the case would result." We conclude the district court did not err by denying appellant's motion for substitution of counsel.

Appellant next contends that the district court erred by denying his pre-sentencing motion to withdraw his guilty plea. Appellant argues that he should have been allowed to withdraw his plea because he pleaded guilty on the understanding that he was going to provide substantial assistance and be released from custody. However, appellant's claim is belied by the record. The plea agreement does not

provide that appellant would be released from custody in order to perform substantial assistance. When appellant was canvassed at the entry of his plea, he informed the district court he had not been made any promises to induce his plea. We conclude that appellant has failed to demonstrate that his plea was invalid. We therefore conclude the district court did not err by denying appellant's motion to withdraw his plea.¹ See Lundy v. State, 89 Nev. 419, 422, 514 P.2d 212, 213 (1973) ("An allegation that a guilty plea is entered because of the expectation of a lesser penalty is, of itself, insufficient to invalidate the plea.").

Having concluded appellant's contentions are without merit, we

ORDER this appeal dismissed.

 _____ Young	J.
 _____ Agosti	J.
 _____ Leavitt	J.

cc: Hon. Janet J. Berry, District Judge
Attorney General
Washoe County District Attorney
James Andre Boles
Washoe County Clerk

¹To the extent appellant argues he rendered substantial assistance, the record shows appellant refused to render substantial assistance unless he was released from custody in order to do so. We therefore conclude this argument is without merit.