

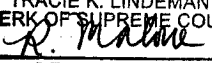
IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS STONE A/K/A THOMAS  
KENNETH STONE, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57005

**FILED**

**FEB 09 2012**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal under NRAP 4(c) from a judgment of conviction, pursuant to a guilty plea, of attempted sexual assault. Eighth Judicial District Court, Clark County; Valorie J. Vega, Judge. Appellant Thomas Stone argues that the district court erred by denying a presentence motion to withdraw his guilty plea for three reasons.

First, Stone claims that the district court used the wrong legal standard to deny his presentence motion to withdraw his guilty plea. A presentence motion to withdraw a guilty plea may be granted for any "substantial, fair, and just reason." Crawford v. State, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001); cf. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (holding that after sentencing a court examines the totality of the circumstances to determine the plea's validity). Prior to hearing argument on this motion, the district court was briefed, by both parties, on the correct legal standard. We conclude that the district court's reference to Bryant, which concerned a post-conviction motion to withdraw a guilty plea, merely acknowledged that the plea was made knowingly and intelligently, and was not evidence that the district court used the legal standard relevant to reviewing a post-conviction motion to withdraw a

guilty plea as Stone suggests. We conclude that the district court applied the correct standard and did not abuse its discretion in this regard. See Crawford, 117 Nev. at 721, 30 P.3d at 1125.

Second, Stone contends that the district court erred by rejecting his claim that his guilty plea was coerced by his attorney who threatened him that if he did not take this deal he would “die in prison.” But Stone stated during the canvass that he voluntarily entered the plea, no one had improperly influenced him, and he understood the plea agreement and its ramifications. Stone also received a substantial benefit for his plea. Charges of first-degree kidnapping, sexual assault, battery, and a respective deadly-weapon enhancement for each were dropped in exchange for a guilty plea to one count of attempted sexual assault. And the parties agreed to a stipulated sentence. Further, Stone signed the guilty plea agreement certifying that the plea was voluntary. Based on the record before us, we conclude that the district court did not abuse its discretion when it found that Stone had not been coerced into pleading guilty. See Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994).

Third, Stone alleges that his equal protection rights were violated when the district court refused to allow him to withdraw the guilty plea. Stone asserts that it is customary in the Eighth Judicial District to grant presentence motions to withdraw guilty pleas and that only Judge Vega routinely denies motions to withdraw guilty pleas. But Stone proffers only bare allegations to support his claim. His claim also flounders because he has not demonstrated that he is a member of a protected class or suffered impermissible discrimination. See Junior v. State, 107 Nev. 72, 77, 807 P.2d 205, 208 (1991) (explaining requirements of establishing equal protection violation).

Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.  
Cherry

Pickering, J.  
Pickering

Hardesty, J.  
Hardesty

cc: Hon. Valorie J. Vega, District Judge  
The Kice Law Group, LLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk