

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE JAMES LEMONS, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57166

**FILED**

**JUL 15 2011**

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of robbery. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

Appellant Willie James Lemons, Jr., contends that the district court erred by denying his proper person "Motion to Withdraw Counsel and for a Faretta v. California, 422 U.S. 806 (1975), Canvass, or in the Alternative, for Leave to File a Proper Person Motion." Although the district court held a hearing on the motion, Lemons has failed to provide this court with the transcript of this proceeding. See NRAP 30(b)(3); Greene v. State, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980) ("The burden to make a proper appellate record rests on appellant."). And it does not appear from the other documents in the record before this court that the district court ever ruled on the motion; instead, it appears that defense counsel informed the court that the motion was moot and the court ordered it off calendar. Thus, Lemons's claim that the district court denied the motion is belied by the record, and we conclude Lemons has failed to demonstrate any error.

Lemons also appears to contend that the district court erred by denying his motion for reconsideration of the above-mentioned motion.

We lack jurisdiction to consider this claim. As the district court did not rule on this motion until after the judgment of conviction was filed, the denial of this motion is not appealable as an intermediate order, see NRS 177.045, and no court rule or statute otherwise allows for an appeal from the denial of a motion for reconsideration, Phelps v. State, 111 Nev. 1021, 1022, 900 P.2d 344, 345 (1995).

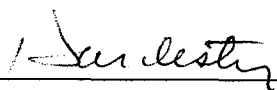
Finally, Lemons contends that the district court erred by denying his presentence motion to withdraw his guilty plea. Lemons appears to contend that his plea was not knowingly and voluntarily entered because, although the State agreed not to argue for habitual criminal treatment and did not seek habitual criminal treatment, the guilty plea agreement contained language regarding habitual criminal sentencing ranges in addition to the range for robbery.

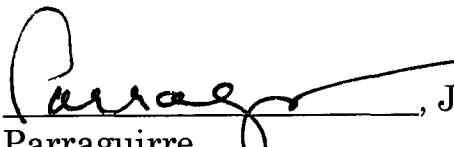
We presume that the district court correctly assessed the validity of a plea on a motion to withdraw the plea and will not reverse its decision absent an abuse of discretion. Molina v. State, 120 Nev. 185, 191, 87 P.3d 533, 538 (2004). It appears that the district court held a hearing on Lemons' motion but he has failed to include a transcript of this hearing in the appendix. Our review of the plea canvass and the guilty plea agreement reveals—and Lemons expressly admits—that Lemons was clearly advised that the State was not seeking habitual criminal treatment. Further, Lemons did not allege that he would not have pleaded guilty if he had known that the State was not seeking habitual criminal treatment. Under these circumstances, we conclude that Lemons has failed to meet his burden to demonstrate that the district court abused its discretion. See Woods v. State, 114 Nev. 468, 475, 958 P.2d 91, 95 (1998) (“A district court may, in its discretion, grant a defendant’s

[presentence] motion to withdraw a guilty plea for any substantial reason if it is fair and just.” (internal quotation marks omitted)); Molina, 120 Nev. at 190, 87 P.3d at 537 (a defendant bears the burden of proving that a plea is invalid); see also Crawford v. State, 117 Nev. 718, 722, 30 P.3d 1123, 1126 (2001) (“A thorough plea canvass coupled with a detailed, consistent, written plea agreement supports a finding that the defendant entered the plea voluntarily, knowingly, and intelligently.”). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Chief Judge, Eighth Judicial District Court  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk