

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER GROSS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57239

FILED

JUL 14 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 entered pursuant to a guilty plea of two counts of trafficking in a controlled substance. Eighth Judicial District Court, Clark County; Doug Smith, Judge.

Appellant Christopher Gross contends that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. Gross claims that his guilty plea was not entered voluntarily and knowingly because he misunderstood the plea canvass and written plea agreement, he experienced "difficulty hearing the entire proceedings," the plea canvass failed to establish that he was pleading guilty because he was actually guilty, he felt intimidated into accepting the plea agreement, and defense counsel was deficient in explaining the plea agreement and "did not listen to his desire to go to trial."


An order denying a presentence motion to withdraw a guilty plea is reviewable on direct appeal from a judgment of conviction as an intermediate order in the proceedings. NRS 177.045; Hart v. State, 116

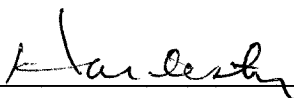
Nev. 558, 562 n.2, 1 P.3d 969, 971 n.2 (2000). A district court may grant a presentence “motion to withdraw a guilty plea for any substantial, fair, and just reason.” Crawford v. State, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001). We presume that the district court correctly assessed the validity of a plea on a motion to withdraw the plea and review its decision for abuse of discretion. Molina v. State, 120 Nev. 185, 191, 87 P.3d 533, 538 (2004).

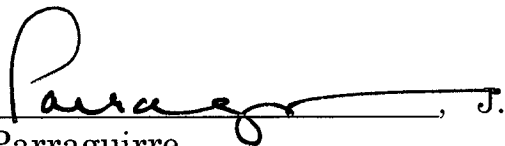
The district court determined that an evidentiary hearing was unnecessary and found that Gross freely and voluntarily entered into plea negotiations; Gross acknowledged that he accepted the negotiations after discussing the matter fully with his attorney; Gross’s “assertions that he did not understand what he was doing, that the plea agreement was not explained to him, or that he did not understand the consequences of his plea of guilty are belied by the record;” and Gross’s “assertions that he was coerced or that the plea was involuntary are also belied by [the] record.” Cf. Means v. State, 120 Nev. 1001, 1016, 103 P.3d 25, 35 (2004) (a defendant is not entitled to an evidentiary hearing if his factual allegations are belied by the record). The written plea agreement and transcript of the plea canvass support the district court’s findings and affirmatively show that Gross entered his plea voluntarily, knowingly, and intelligently. See Crawford, 117 Nev. at 721-22, 30 P.3d at 1125-26. Accordingly, we conclude that Gross has failed to overcome the presumption that the district court correctly assessed the validity of his guilty plea and has not demonstrated that the district court abused its

discretion by denying his presentence motion to withdraw his guilty plea,
see id., and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Doug Smith, District Judge
Bush & Levy, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk