

IN THE SUPREME COURT OF THE STATE OF NEVADA

NICHOLAS STURM,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 35239

**FILED**

JUN 13 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 second degree kidnapping. The district court sentenced appellant to serve 24 to 60 months in the Nevada State Prison.

Appellant contends the district court abused its discretion in denying his pre-sentence motion to withdraw his guilty plea. Appellant argues that the district court's oral plea canvass was insufficient to conclude appellant's guilty plea was knowing and voluntary because he did not expressly admit each element of second degree kidnapping as stated in NRS 200.310(2). We disagree.

A guilty plea is presumptively valid, and the defendant must establish that it was not. *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986). This court will review the entire record and consider the totality of the circumstances to determine whether a defendant's guilty plea was valid. Id. Absent an abuse of discretion, this court

will not reverse a district court's decision on the validity of a guilty plea. Id. Moreover,

it is . . . advisable for the district courts to satisfy themselves and establish a record showing that each plea, including one entered upon a written plea agreement, is entered voluntarily and with an understanding of the nature of the charges and the consequences of the plea. However, where . . . the record shows that the defendant was otherwise fully informed regarding these matters, the defendant will not be heard to complain that this information did not come directly from the district court.

Lee v. State, 115 Nev. 207, 209-10, 985 P.2d 164, 166 (1999).

We have also held that

while we believe trial courts should in all circumstances conduct sufficient and thorough plea canvasses, as an appellate court reviewing the validity of a plea, we cannot be constrained to look only to the technical sufficiency of a plea canvass to determine whether a plea has been entered with a true understanding of the nature of the offense charged. As the United States Supreme Court has recognized, an appellate court should review the entire record, and look to the totality of the facts and circumstances of a defendant's case, to determine whether a defendant entered his plea with an actual understanding of the nature of the charges against him.


Bryant, 102 Nev. at 271, 721 P.2d at 367.

During the oral plea canvass, appellant admitted that he was guilty of the charged offense, stating that he forced the victim against her will to drive him to his home. The written plea agreement and attachment also provide a factual basis for second degree kidnapping, specifically, that appellant used a stun gun to force the victim to drive him home. Appellant also stated that no one had threatened, forced or coerced him to plead guilty, that he fully understood the consequences of his guilty plea, and that he


had reviewed and understood the plea agreement. Therefore, the record belies appellant's claims regarding the knowing and voluntary nature of his plea. Accordingly, we conclude that the district court did not err in rejecting appellant's claim that his guilty plea was not knowingly and voluntarily entered.

Having considered appellant's contention and concluded that it is without merit, we

ORDER this appeal dismissed.

  
Maupin J.

  
Shearing J.

  
Becker J.

cc: Hon. John S. McGroarty, District Judge  
Attorney General  
Clark County District Attorney  
Leo P. Flangas  
Clark County Clerk