

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUY RICHARD WOODARD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58768

FILED

DEC 07 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ince*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of possession of a controlled substance with intent to sell. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Appellant Guy Richard Woodard contends that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. The district court may grant a presentence motion to withdraw a guilty plea for any substantial reason that is fair and just. State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969); see NRS 176.165. “[T]he trial court has a duty to review the entire record to determine whether the plea was valid.” Mitchell v. State, 109 Nev. 137, 141, 848 P.2d 1060, 1062 (1993).

Woodard contends that the plea agreement changed immediately before he entered it and he did not hear that the State would be free to argue at sentencing. This argument is belied by the record. Woodard entered his guilty plea at arraignment where he requested and received hearing aids. Subsequently, the State indicated the freedom to argue at sentencing was a term of the plea agreement. Defense counsel was given time to speak to his client about the terms of the plea bargain.

During the plea canvass the district court indicated that he would allow each party to argue at sentencing. At the hearing on Woodard's motion to withdraw his guilty plea, defense counsel stated that he had discussed the challenged provision with Woodard and believed that he understood it. Based upon the record, we conclude that the district did not abuse its discretion by denying Woodard's motion to withdraw his guilty plea. See Riker v. State, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995).

Having considered Woodard's claim and concluded it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. Robert W. Lane, District Judge
Christopher R. Arabia
Nye County District Attorney
Attorney General/Carson City
Nye County Clerk