

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN DRYDEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58822

FILED

MAY 10 2012

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Anderson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of second-degree murder. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

Dryden argues that the district court abused its discretion by denying his proper person motion to withdraw his guilty plea without appointing alternative counsel where the motion was based on claims that counsel coerced the plea and he was intoxicated at the time of the plea. We disagree.

Guilty pleas are presumptively valid, especially when entered on advice of counsel, and a defendant has a heavy burden to show the district court that he did not enter his plea voluntarily. Crawford v. State, 117 Nev. 718, 722, 30 P.3d 1123, 1126 (2001); Barajas v. State, 115 Nev. 440, 442, 991 P.2d 474, 476 (1999). "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.'" Woods v. State, 114 Nev. 468, 475, 958 P.2d 91, 95 (1998) (quoting State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969)). A district court must examine the totality of the circumstances to determine whether a defendant entered his plea voluntarily. Crawford, 117 Nev. at 721-22, 30 P.3d at 1125-26. "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.” Id. at 722, 30 P.3d at 1126. “When reviewing a district court’s denial of a motion to withdraw a guilty plea, this court presumes that the district court properly assessed the plea’s validity, and we will not reverse the lower court’s determination absent abuse of discretion.” Id. at 721, 30 P.3d at 1125.

We conclude that Dryden has failed to substantiate his coercion claims. First, the district court canvassed Dryden on his understanding of the proceedings, the nature of the charges, and the possible penalties. Second, Dryden signed a plea agreement memorializing the negotiations and attesting that his plea was not coerced. Third, during the canvass, he admitted his guilt and claimed to enter the plea voluntarily. Fourth, while the court should have appointed Dryden counsel at the hearing to withdraw the guilty plea, we discern no error because Dryden’s explanations did not remotely demonstrate that his attorney was coercive.

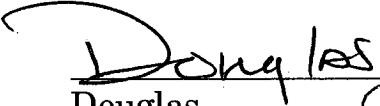
Here, Dryden admitted that he had discussed with his attorney the State’s evidence and the charges and elements the State would have to establish at trial. He claims that his attorney was coercive because she told him he “needed to take the plea because she didn’t believe that anybody would understand the truth of what had happened.” The district court later asked why Dryden had pleaded guilty. He replied, “Because I was afraid that I would get 20 to life in trial.” None of Dryden’s reasons for pleading guilty show coercion. Accordingly, Dryden has not demonstrated a substantial reason that is fair and just for granting his


motion to withdraw his guilty plea. Woods, 114 Nev. at 475, 958 P.2d at 95.

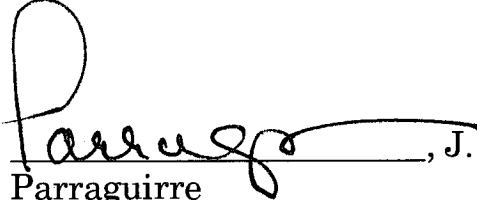
Dryden also argues that his plea was unknowing and involuntary because he was under the influence of psychiatric medication. We disagree. Here, the district court was aware of Dryden's medications. He was specifically canvassed on his medication use. During the canvass, Dryden claimed that he was taking his medication, but it was not affecting him. Dryden's counsel who had been monitoring Dryden's medication use for several years, also believed that her client was lucid enough to enter the plea. Further, Dryden signed a written plea agreement attesting that he was not under the influence of any controlled substance which would impair his comprehension or understanding of the plea. Accordingly, Dryden has failed to proffer a substantial reason that is fair and just for granting his motion to withdraw his guilty plea because of his medication. Id.

We therefore conclude that Dryden has failed to demonstrate the district court abused its discretion in denying the presentence motion to withdraw the guilty plea, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Chief Judge, The Eighth Judicial District Court
Eighth Judicial District Court Dept. 14
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk