

IN THE SUPREME COURT OF THE STATE OF NEVADA

NORMAN K. FLOWERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59250

FILED

DEC 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to an Alford¹ plea, of two counts of first-degree murder. Eighth Judicial District Court, Clark County; Doug Smith, Judge.

Appellant Norman Flowers argues that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. Flowers claimed that his plea was not entered knowingly and intelligently because he did not fully understand the consequences of an Alford plea and did not understand that he would have to withdraw the pending appeal of another murder conviction and that his plea was not entered voluntarily because counsel's actions and statements by the district court implied that he would not receive an effective defense if he went to trial. NRS 176.165 permits a defendant to file a motion to withdraw a guilty plea before sentencing. The district court may grant such a motion in its discretion for any substantial reason that is fair and just. State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969). A guilty plea is presumptively valid, and a defendant carries the burden of


¹North Carolina v. Alford, 400 U.S. 25 (1970).

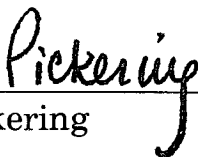
establishing that the plea was not entered knowingly and intelligently. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994).

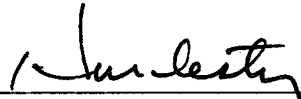
The district court held an evidentiary hearing, listened to testimony from Flowers and defense counsel, and concluded that Flowers' claims were without merit. Upon a review of the record, we conclude that the district court did not abuse its discretion in denying Flowers' motion to withdraw his plea. The record demonstrates that in addition to a thorough canvass, counsel discussed with Flowers that he would be required to withdraw his pending appeal and that Flowers was aware of the nature and consequences of his plea under Alford. The record also demonstrates that Flowers entered his plea voluntarily and was not coerced into taking the plea by counsel's actions or statements by the district court. We therefore conclude that the district court did not abuse its discretion in denying Flowers' presentence motion to withdraw his plea. Riker v. State, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995) (noting that "this court 'will presume that the lower court correctly assessed the validity of the plea, and we will not reverse the lower court's determination absent a clear showing of an abuse of discretion'" (quoting Bryant, 102 Nev. at 272, 721 P.2d at 368)).

Accordingly, we

ORDER the judgment of conviction AFFIRMED.


Saitta, J.


Pickering, J.


Hardesty, J.

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