

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILLIP TYRONE WOOTSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59270

FILED

MAR 07 2012

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


ORDER OF AFFIRMANCE

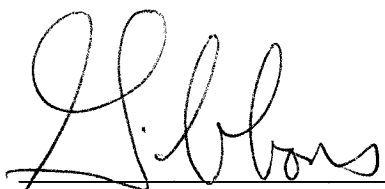
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of burglary and conspiracy to commit a crime. Eighth Judicial District Court, Clark County; Valorie J. Vega, Judge.

Appellant's sole issue on appeal is that the district court erred by denying his presentence motion to withdraw his guilty plea based on ineffective assistance of counsel. A defendant may move to withdraw a plea before sentencing, NRS 176.165, and the district court may, in its discretion, grant the motion "for any substantial, fair, and just reason." Crawford v. State, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001). Appellant may challenge the validity of his plea by showing that he received ineffective assistance of counsel under the Sixth Amendment, but he bears a heavy burden to show that the plea was not entered knowingly, intelligently, or voluntarily. Molina v. State, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004). In this, appellant must show a reasonable probability that he would have insisted on going to trial absent counsel's errors. Id. at 191, 87 P.3d at 537. Here, appellant argues that counsel was ineffective on a myriad of grounds, including that counsel failed to effectively communicate with him, investigate his case, file pretrial motions, coerced him into pleading guilty, and did not adequately explain the terms of the guilty plea agreement. Appellant presented nothing more than bare

allegations and failed to explain how any of those matters affected his decision to plead guilty. Appellant also complains that counsel failed to provide him with discovery. The record demonstrates that appellant was provided discovery after filing his motion to withdraw his guilty plea, yet he fails to explain how any discovery matter affected his decision to plead guilty. Finally, he argues that counsel promised him that he would receive probation. During the plea canvass, however, he acknowledged that sentencing was strictly within the district court's discretion and that "no one could promise [him] probation, leniency, or any sort of special treatment." In addition, the plea agreement, which appellant acknowledged reading and understanding, included similar provisions. We conclude that the district court did not err by denying appellant's presentence motion to withdraw his guilty plea. Crawford, 117 Nev. at 721, 30 P.3d at 1125 (stating that in reviewing denial of motion to withdraw a guilty plea, we presume that district court properly assessed the plea's validity and will not reverse district court's decision absent abuse of discretion). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Valorie J. Vega, District Judge
The Almase Law Group LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk