

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARREL BARNES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59456

FILED

DEC 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Handwritten Signature
DEPUTY CLERK

ORDER OF AFFIRMANCE, IMPOSING SANCTIONS, AND
REFERRING COUNSEL TO BAR

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted lewdness with a child under the age of fourteen. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

On appeal, appellant's counsel, Dean Kajioka, summarily asserts, "The District Court erred in denying the Appellant's motion to withdraw guilty plea." The State urges this court to dismiss this appeal because Mr. Kajioka failed to support this claim with specific legal argument and did not provide any citation to legal authority.

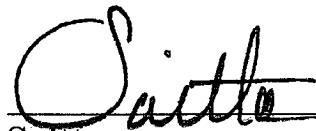
Initially, we note that Mr. Kajioka failed to comply with the rules of this court when drafting the fast track statement. Specifically, the legal argument does not contain citation to any authority and, although the fast track statement contains a statement of facts and procedural history, the document does not contain a single citation to the appendix. NRAP 3C(e)(1)(B), (C). Further, the appendix submitted by Mr. Kajioka is inadequate because it does not contain copies of the transcripts necessary for this court's "review of the issue[] presented on appeal." NRAP 30(b)(1). See NRAP 3C(e)(2)(C). Although this court need not address issues unsupported by "relevant authority and cogent argument," Maresca

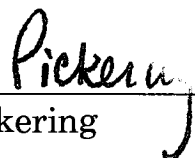
v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987), here, where the district court conducted an evidentiary hearing on appellant's motion to withdraw and made specific findings of fact and the State provided this court with copies of the necessary transcripts, thereby enabling us to address the merit of appellant's claim, we decline to summarily dismiss this appeal. However, Mr. Kajioka's failure to comply with the rules of this court when briefing this appeal and compiling the appendix is unacceptable. Therefore, we impose a \$500 sanction against Mr. Kajioka. NRAP 3C(n); NRAP 30(g)(2); Smith v. Emery, 109 Nev. 737, 743, 856 P.2d 1386, 1390 (1993) (sanctioning counsel for failing to provide a single citation to the record in order "to impress upon the members of the bar [the court's] resolve to end the lackadaisical practices of the past and to enforce the Nevada Rules of Appellate Procedure"). Mr. Kajioka shall have 20 days from the date of this order to pay the sum of \$500 to the Supreme Court Law Library and provide this court with proof of such payment. Further, we refer Mr. Kajioka to the State Bar of Nevada for investigation pursuant to SCR 105. Bar counsel shall, within 90 days of the date of this order, inform this court of the status or results of the investigation and any disciplinary proceedings in this matter.

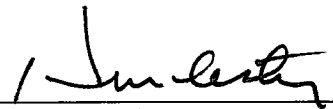
A district court may grant a presentence motion to withdraw a guilty plea for any substantial, fair, and just reason, and this court will not reverse the district court's determination absent a showing of abuse of discretion. Crawford v. State, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001). The district court reviewed the motion to withdraw the plea, supplemental motion, opposition, guilty plea agreement, and transcript of the plea canvass, and conducted an evidentiary hearing on the motion. Appellant's former counsel testified that he informed appellant of the

potential sentences appellant was facing pursuant to the plea, including that appellant could receive probation and was subject to lifetime supervision and sex offender registration, and discussed some possible conditions of probation and sex offender registration. The district court determined that this testimony was credible and the plea was voluntarily entered because appellant knew and understood the charges against him and that he would be subject to lifetime supervision and sex offender registration when he pleaded guilty. The totality of the circumstances supports the district court's determination. See id. at 721-22, 90 P.3d at 1125-26. Therefore, we conclude the district court did not abuse its discretion by denying the motion and supplemental motion to withdraw the guilty plea, and we

ORDER the judgment of conviction AFFIRMED.


Saitta, J.


Pickering, J.


Hardesty, J.

cc: Hon. Stefany Miley, District Judge
Kajioka & Bloomfield
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk
Supreme Court Law Librarian
Bar Counsel