

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL GERARD PAGE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59520

FILED

SEP 13 2012

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of sexual assault and use of a minor in producing pornography. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Appellant's sole argument on appeal is that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea because it was involuntary and unknowing. A defendant may file a presentence motion to withdraw a guilty plea, NRS 176.165, which the district court may grant for any substantial, fair, and just reason, Crawford v. State, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001).

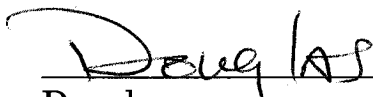
Appellant contends that he should be allowed to withdraw his guilty plea because he subsequently learned that the victim, his step-granddaughter, and her family had received unwanted email messages from appellant's account and postings on their social network websites, many containing links to suspected illegal pornographic sites, during the time when he was in custody and had no computer access. He argues that this evidence suggests an alternative suspect. However, appellant fails to adequately explain how that evidence is exculpatory, where his convictions stem from sexually assaulting his step-granddaughter and taking pornographic photographs of her.

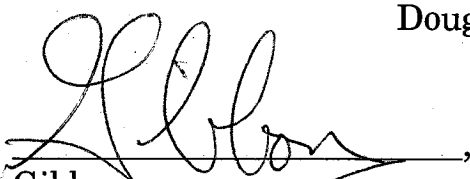
Similarly, appellant's claim that he was impaired from the use of powerful tranquilizing drugs when he entered his guilty plea lacks merit. After conducting an evidentiary hearing on the matter, during which appellant presented no significant evidence, the district court concluded that there was no reason to believe that he was impaired when he entered his plea. See Molina v. State, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004) (concluding that "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 knowingly, intelligently, or voluntarily"). Nothing in the plea canvass suggests that appellant was impaired and appellant acknowledged in his guilty plea agreement that he was not under the influence of any substance or drug that impaired his ability to understand the agreement or the guilty plea proceedings.

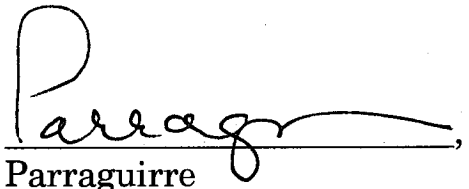
Because appellant has failed to articulate a substantial, fair, and just reason for withdrawing his plea, the district court did not abuse its discretion in this matter. Riker v. State, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995).

Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Valerie Adair, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk