

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARTIN VINCENT KERBER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 59819

**FILED**

JUL 26 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY A. Malone  
DEPUTY CLERK

ORDER OF AFFIRMANCE

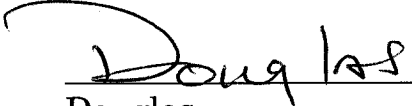
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of battery constituting domestic violence—strangulation. Eighth Judicial District Court, Clark County; Doug Smith, Judge.

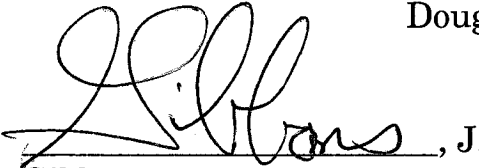
Appellant Martin Vincent Kerber contends that the district court erred by denying his presentence motion to withdraw his guilty plea.<sup>1</sup> Kerber claims that his plea was not entered voluntarily, knowingly, and intelligently because counsel “only spent two minutes with him going over his plea agreement.” “This court will not reverse a district court’s determination concerning the validity of a plea absent a clear abuse of discretion.” Johnson v. State, 123 Nev. 139, 144, 159 P.3d 1096, 1098 (2007); see also Crawford v. State, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001) (“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.”). Kerber failed to either provide a substantial reason which required the withdrawal of his guilty plea, see Woods v.

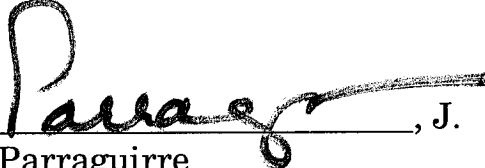
<sup>1</sup>The Honorable Michael Villani, District Judge, presided over the hearing and denied Kerber’s motion to withdraw his guilty plea.

State, 114 Nev. 468, 475, 958 P.2d 91, 95 (1998), or satisfy his burden and prove that his plea was invalid, see Molina v. State, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004) (defendant bears the burden of proving that the plea is invalid). Therefore, we conclude that Kerber is not entitled to relief. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Doug Smith, District Judge  
Hon. Michael Villani, District Judge  
Carl E. G. Arnold  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk