

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH ADRIAN HERNANDEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60748

FILED

FEB 13 2013

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of two counts of lewdness with a child under the age of 14 years. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

Appellant Joseph Adrian Hernandez contends that the district court erred by denying his presentence motion to withdraw his guilty plea because it was based on untrue information originating from the victim's grandmother, an invalid confession that he made while sleep deprived and going through the manic stage of his bipolar disorder, and his willingness to admit to things to avoid confrontation with authority figures.

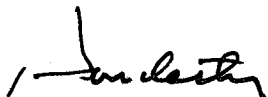
"This court will not reverse a district court's determination concerning the validity of a [guilty] plea absent a clear abuse of discretion." Johnson v. State, 123 Nev. 139, 144, 159 P.3d 1096, 1098 (2007). Here, the district court conducted a hearing on Hernandez's motion. Hernandez testified that he made a hasty decision to enter the guilty plea, did not commit the alleged offenses, and lied to the district court during his plea canvass. The district court found that Hernandez was thoroughly canvassed on his decision to plead guilty and swore under

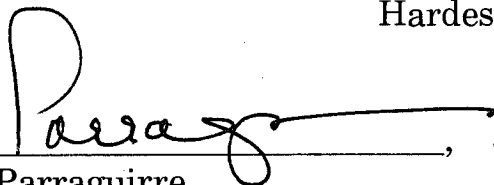


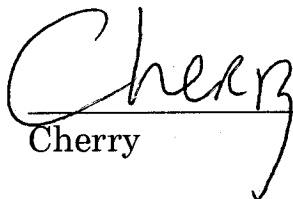
oath that he read, understood, and signed the written plea agreement; understood his rights and voluntarily waived them; and understood the nature of the charges against him, the associated penalties, and the consequences of pleading guilty. The district court further found that Hernandez's testimony at the hearing on his motion was incredible; Hernandez did not meet his burden to show that the guilty plea was invalid; and the totality of the circumstances demonstrated that Hernandez entered his plea intelligently, knowingly, and voluntarily.

The record on appeal supports the district court's factual findings, and we conclude that Hernandez has failed to demonstrate that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. See id. (defendant bears the burden of proving that his plea is invalid). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Richard Wagner, District Judge
Pershing County Public Defender
Attorney General/Carson City
Pershing County District Attorney
Pershing County Clerk