

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARCUS ROBERT HUNT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60805

FILED

JAN 16 2013

TRACIE K. LINDEMAN
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ORDER OF AFFIRMANCE

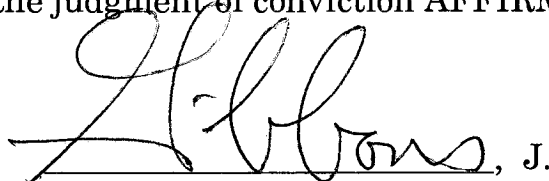
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of conspiracy to commit robbery and robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

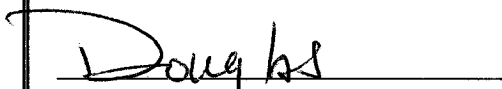
Appellant argues that the district court abused its discretion in denying his presentence motion to withdraw his guilty plea on the ground that it was involuntary due to coercion by counsel. Guilty pleas are presumptively valid, especially when entered on advice of counsel, and a defendant has a heavy burden to show the district court that he did not enter his plea voluntarily. Molina v. State, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004). 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). In considering whether a defendant has “advanced a substantial, fair, and just reason to withdraw a [guilty] plea, the district court must consider the totality of the circumstances to determine whether the defendant entered the plea voluntarily, knowingly, and intelligently.” Id. 117 Nev. at 722, 30 P.3d at 1125-26.


Appellant argues that his acceptance of the plea negotiation was conditioned upon his mother's approval of it and because counsel misrepresented to him that his mother favored the negotiation, his plea was involuntary. At an evidentiary hearing, counsel testified that before appellant entered his guilty plea, he indicated to counsel that he had spoken with his family, who seemed to be in favor of appellant accepting the negotiation. Counsel also related that he might have informed appellant that his mother was in favor of the negotiation but that the decision to accept it rested with appellant. Appellant testified that because he experienced difficulties in contacting his mother, he relied on counsel to communicate with her and that he was "under the impression that [his] mother said take the deal" at the time he entered his guilty plea. He acknowledged that he had a lengthy time to consider the plea negotiation and that the decision to accept it was his. Unpersuaded by appellant's arguments, the district court concluded that his guilty plea was voluntary.

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

ORDER the judgment of conviction AFFIRMED.


Gibbons


Douglas, J.


Saitta, J.

cc: Hon. James M. Bixler, District Judge
Eichhorn & Hoo LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk