

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARRYL OKEITH FISHER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61875

FILED

OCT 17 2013

TRACIE K. LINDEMAN
CLERK OF THE SUPREME COURT
BY *T. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted battery constituting domestic violence-strangulation. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

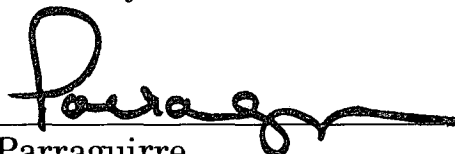
First, appellant Darryl Fisher contends that the district court erred by denying his presentence motion to withdraw his guilty plea because the hearing master who accepted his plea was also a justice of the peace. “The fact that justices of the peace might also serve as district court masters is only *incidental* to their roles as justices of the peace and is not an unconstitutional judicial expansion of the justice court’s jurisdiction.” *State v. Frederick*, 129 Nev. ___, ___, 299 P.3d 372, 376 (2013). Because Fisher’s plea was validly accepted by an authorized hearing master, we conclude that this claim lacks merit.

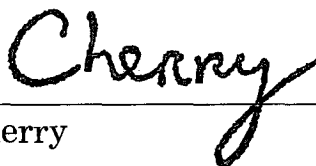
Second, Fisher contends that the district court erred by denying his presentence motion to withdraw his guilty plea because he was not brought before a magistrate for a probable cause determination within 48 hours of his arrest. A defendant is entitled to withdraw his guilty plea prior to sentencing if he advances a “substantial, fair, and just

reason,” to do so by demonstrating that the plea was not entered knowingly, voluntarily, and intelligently. *Crawford v. State*, 117 Nev. 718, 721-22, 30 P.3d 1123, 1125-26 (2001). Because Fisher does not allege, and the record does not demonstrate, that the constitutional violation which occurred prior to his guilty plea affected the knowing, voluntary, or intelligent nature of the plea, we conclude that this claim lacks merit. Accordingly, we

ORDER the judgment of conviction AFFIRMED.¹


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Douglas W. Herndon, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The fast track response does not comply with NRAP 3C(h)(1) and NRAP 32(a)(4) because the text is not double-spaced. Counsel for the State is cautioned that the failure to comply with the briefing requirements in the future may result in the imposition of sanctions. See NRAP 3C(n).