

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS BOLICH,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 62628

**FILED**

FEB 13 2014

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

*ORDER OF AFFIRMANCE AND DIRECTIONS TO CORRECT  
CLERICAL ERROR IN THE JUDGMENT OF CONVICTION*

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of driving under the influence. Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

Appellant argues that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea on the ground that his plea was unknowing and involuntary because the analysis of his blood alcohol level was performed by an analyst who was subsequently discredited in an unrelated case. NRS 176.165 permits a defendant to file a motion to withdraw a guilty plea before sentencing. The district court may grant such a motion in its discretion for any substantial reason that is fair and just. *State v. Second Judicial Dist. Court*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969). "On appeal from a district court's denial of a motion to withdraw a guilty plea, this court 'will presume that the lower court correctly assessed the validity of the plea, and we will not reverse the lower court's determination absent a clear showing of an abuse of discretion.'" *Riker v. State*, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995) (quoting *Bryant v. State*, 102 Nev. 268, 272, 721

P.2d 364, 368 (1986)). We conclude that the district court did not abuse its discretion in this regard as appellant has presented nothing suggesting that his blood sample was mishandled or inaccurately analyzed and therefore he has not proffered a substantial reason to warrant withdrawal of his guilty plea.

Appellant next argues that the district court erred by denying his motion to consider the constitutional validity of the prior convictions used to enhance the instance offense. However, the district court denied the motion before appellant entered his guilty plea. This court has repeatedly stated that, generally, the entry of a guilty plea waives any right to appeal from events occurring prior to the entry of the plea. See *Webb v. State*, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975). “[A] guilty plea represents a break in the chain of events which has preceded it in the criminal process. . . . [A defendant] may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea.” *Id.* (first alteration in original) (quoting *Tollett v. Henderson*, 411 U.S. 258, 267 (1973)). Because the entry of a guilty plea waives the right to appeal events that occurred before entry of the plea, appellant’s challenge does not provide a basis to withdraw the plea.

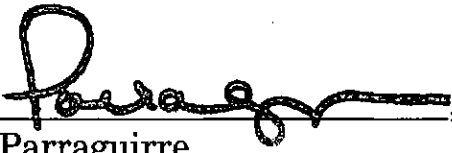
Finally, appellant contends that the judgment of conviction incorrectly reflects that he was convicted of a category A felony rather than a category B felony. We agree. Therefore, we direct the district court


to enter a corrected judgment of conviction reflecting that appellant was convicted of a category B felony.<sup>1</sup> See NRS 484C.410(1).

Accordingly, we

ORDER the judgment of conviction AFFIRMED and direct the district court to correct the judgment of conviction as indicated above.

  
\_\_\_\_\_, J.  
Pickering

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

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Jennifer P. Togliatti, District Judge  
Carmine J. Colucci & Associates  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>We note the appellant's sentence to 48 to 144 months falls within the permissible range of punishment. NRS 484C.410.