

IN THE SUPREME COURT OF THE STATE OF NEVADA

CEASAR S. VALENCIA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62817

FILED

OCT 16 2013

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a no contest plea, of misdemeanor reckless driving. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

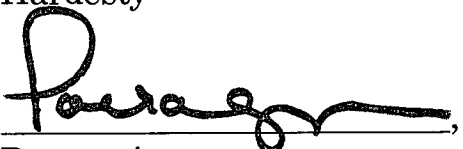
In the initial fast track statement filed on behalf of appellant Ceasar S. Valencia, counsel claimed that “[t]here exists no arguable legal issues to be raised in this appeal except for the issues raised in Valencia’s motion to fire counsel, which was filed before he plead guilty,” and that “the Clark County Public Defender will not argue those issues.” We remind counsel that “[a]ttorneys must argue for their clients without conceding an appeal is without merit.” *Ramos v. State*, 113 Nev. 1081, 1084, 944 P.2d 856, 858 (1997). “[C]ounsel should file a brief that includes all arguable issues and argues defendant’s appeal as well as possible.” *Id.* at 1084, 944 P.2d at 857. If an appellant insists on arguing a meritless point, “counsel’s accurate summary of the facts and law will make that obvious.” *State v. Cigic*, 639 A.2d 251, 254 (N.H. 1994).

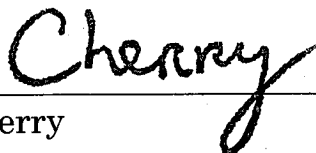
In the supplemental fast track statement filed by newly appointed appellate counsel, Valencia contends that his no contest plea was not entered knowingly and voluntarily because he did not understand

the charges against him and the consequences of his plea. Valencia claims that "he was incorrectly advised by both the district court and trial counsel that his plea in the instant matter would not affect his probation" in an unrelated case. Challenges to the validity of a no contest plea must generally be raised in the district court in the first instance by either filing a motion to withdraw the plea or commencing a post-conviction proceeding pursuant to NRS Chapter 34. *See Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986), *limited by Smith v. State*, 110 Nev. 1009, 1010 n.1, 879 P.2d 60, 61 n.1 (1994); *see also O'Guinn v. State*, 118 Nev. 849, 851-52, 59 P.3d 488, 489-90 (2002). Valencia did not challenge the validity of his plea in the district court and we conclude that his claim is not appropriate for review on direct appeal. *See O'Guinn*, 118 Nev. at 851-52, 59 P.3d at 489-90. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Michael Villani, District Judge
Nguyen & Lay
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk