

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIN MAGANA A/K/A MARIN
MAGANA CASTANEDA,
Appellants,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63268

FILED

MAR 12 2014

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of felony trafficking in a controlled substance. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

Appellant Marin Magana argues that the district court erred by denying his presentence motion to withdraw his guilty plea because it was based solely on defense counsel's representation that it was his best option, he did not have a chance to view the discovery, and he did not understand the guilty plea agreement.

A defendant may move to withdraw a plea before sentencing, NRS 176.165, and the district court may, in its discretion, grant such a motion "for any substantial, fair, and just reason." *Crawford v. State*, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001). "On appeal from a district court's denial of a motion to withdraw a guilty plea, [we] 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) (internal quotation marks omitted).

The district court conducted an evidentiary hearing and made the following factual findings: (1) Magana was carefully canvassed on his understanding of the proceedings, nature of the charge, and possible penalties; (2) the court specifically asked Magana if defense counsel had failed to do something that Magana asked him to do and inquired as to whether Magana understood the interpreter's translations and Magana did not voice any concerns; (3) Magana affirmatively admitted his guilt during the canvass, signed the guilty plea agreement, and acknowledged his understanding of the terms of the agreement; (4) Magana did not indicate why the information contained in the police reports and audio recordings might have caused him to insist on going to trial; (4) Magana did not identify how further consultation with defense counsel would have altered his decision to plead guilty; and (5) because the record reflects that Magana was originally charged with four category A felonies and four category B felonies, he dramatically decreased his exposure to prison time by pleading guilty to one category A felony.

The record on appeal supports the district court's factual findings, and we conclude that Magana has failed to demonstrate that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. *See Molina v. State*, 120 Nev. 185, 190, 87 P.3d

533, 537 (2004) (defendant bears the burden of proving that plea is invalid). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Michael Montero, District Judge
Evenson Law Office
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk