

IN THE SUPREME COURT OF THE STATE OF NEVADA

AKEEM TRIPP,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63461

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 an *Alford*¹ plea of voluntary manslaughter with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Appellant Akeem Tripp argues that the district court abused its discretion by sentencing him without first conducting an evidentiary hearing upon learning that he was dissatisfied with his plea agreement and defense counsel. "We review a district court's denial of an evidentiary hearing for an abuse of discretion." *United States v. Schafer*, 625 F.3d 629, 635 (9th Cir. 2010). During his allocution, Tripp stated,

First of all, my heart goes out to the victim's family in this case. I hope someday they get closure. My family too is greatly affected by this crime. I want the Court to know that I have pled guilty in this case, not because of the quality of the evidence against me which was manufactured witnesses by jailhouse informants, but because of my loss of faith of my defense counsel. Had

¹*North Carolina v. Alford*, 400 U.S. 25 (1970).

defense counsel filed a motion to suppress or had I seen Preston Jake's statement, I don't believe I would have taken the deal. I took the deal because of the State's gamesmanship, this is, switching out my attorneys and buying informants. I felt that no matter what even if someone else came forward and confessed, I'd get wrongfully convicted and sentenced to life without the possibilities. I ask now that the Court have mercy on me. I'm only 21, a kid. Please only sentence me to eight to twenty year sentence. I just graduated high school last month. That's about it, Your Honor.

The district court observed that Tripp's statement was highly irregular and queried both parties: the defense counsel stated that, "[i]t is what it is" and submitted that matter to the court, and the prosecutor responded that Tripp was canvassed on his *Alford* plea and the plea was accepted.

Because Tripp did not move to withdraw his *Alford* plea, seek new defense counsel, or request an evidentiary hearing, we conclude that the district court did not abuse its discretion by failing to sua sponte order an evidentiary hearing. *See Cortes v. State*, 127 Nev. ___, ___, 260 P.3d 184, 187-88 (2011) (district court did not abuse its discretion by failing to order an evidentiary hearing where defendant neither asked for one nor identified disputed issues of material fact). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Jessie Elizabeth Walsh, District Judge
Special Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk