IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD LATTIN, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63551

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to an *Alford* plea,[1] of reckless driving. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

First, appellant Edward Lattin, III, contends that the district court abused its discretion at sentencing by relying on impalpable or highly suspect evidence. In support of his argument, Lattin claims there was insufficient evidence to support the district court's acceptance of his plea. We disagree with Lattin's contention.[2]

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

[2]Challenges to the validity of an *Alford* 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). Lattin did not challenge the validity of his plea in the district court and we conclude that his claim, to the extent it is raised, is not appropriate for review on direct appeal. *See O'Guinn*, 118 Nev. at 851-52, 59 P.3d at 489-90.

VACATED PER ORDER FILED 10/15/14.

This court will not disturb a district court's sentencing determination absent an abuse of discretion. *See Parrish v. State*, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000). Lattin fails to demonstrate that the district court relied solely on impalpable or highly suspect evidence, *see Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009), and his prison term of 14-48 months falls within the parameters provided by the relevant statute, *see* NRS 484B.653(6) (category B felony punishable by a prison term of 1-6 years and a fine of $2,000-$5,000). Moreover, the granting of probation is discretionary. *See* NRS 176A.100(1)(c). We conclude that the district court did not abuse its discretion at sentencing.

Second, Lattin contends that the district court erred by failing to provide him with the untimely notification of media request to cover his sentencing hearing, *see* SCR 245, and "make particularized findings on the record when determining whether electronic coverage will be allowed," SCR 230(2). Lattin claims that the district court's violation of the electronic media coverage rules was "deliberate" and "intentional" and requires the setting aside of his sentence. We disagree.

"[T]here is a presumption that all courtroom proceedings that are open to the public are subject to electronic coverage." SCR 230(2). The district court may, at its discretion, grant an untimely request for media coverage. SCR 230(1). "The consent of participants to coverage is not required." SCR 240(1). In the five years leading up to Lattin's sentencing hearing, the record indicates that multiple media requests for access to various courtroom proceedings were sought and granted by the district court. At his sentencing hearing, Lattin did not object to the presence of the media and, in the absence of a demonstration of prejudice or a miscarriage of justice, we conclude that he fails to demonstrate plain error

entitling him to relief. *See* NRS 178.602; *Mendoza-Lobos v. State*, 125 Nev. 634, 644, 218 P.3d 501, 507 (2009).

Third, Lattin contends that the district court erred by taking his motion for reconsideration of his sentence and motion to strike his sentence "off calendar." Lattin, however, offers no argument or citation to any legal authority in support of his claim, therefore, we need not address it. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").

Fourth, Lattin contends that the chief judge of the district court erred by denying his motion to recuse the sentencing judge. Lattin states that "[a] review of the Media Request and Order form raised serious concerns." Once again, Lattin fails to offer any cogent argument or citation to legal authority in support of his claim, therefore, we will not address it. *See id.*

Finally, Lattin raises several claims pertaining to events occurring prior to the entry of his *Alford* plea: (1) the State failed to present exculpatory evidence during the grand jury proceedings, (2) the State failed to present the requisite slight or marginal evidence necessary to support the probable cause determination, (3) the district court erred by denying his pretrial habeas petition and motion in limine both based on the lack of evidence, and (4) the district court erred by denying his motion to suppress the results of his blood test because his consent to the draw was coerced and not voluntary. Lattin claims that the guilty plea

agreement "allowed [him] to . . . preserve *all* of his appellate issues."[3] We disagree with Lattin's contention.

A defendant has a limited right to appeal from a judgment of conviction based on an *Alford* plea. *See* NRS 177.015(4); *see also Davis v. State*, 115 Nev. 17, 19, 974 P.2d 658, 659 (1999). Generally, there are limited issues that can be raised in such an appeal, *see Franklin v. State*, 110 Nev. 750, 877 P.2d 1058 (1994), *overruled on other grounds by Thomas v. State*, 115 Nev. 148, 979 P.2d 222 (1999), because the entry of an *Alford* plea waives any right to challenge events occurring prior to the entry of the plea, *see Webb v. State*, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975); *see also Tollett v. Henderson*, 411 U.S. 258, 267 (1973). NRS 174.035(3) provides an exception to that rule: "[w]ith the consent of the court and the district attorney, a defendant may enter a conditional plea of . . . nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of *any specified pretrial motion*." (Emphasis added.) Here, Lattin's guilty plea agreement stated generally that "the Defendant shall maintain his right to appeal" and did not specify, in writing, a pretrial motion or adverse determination of any kind as required by NRS 174.035(3). Further, during the parties' explanation of the plea negotiations at Lattin's arraignment, there was no reference to

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[3]The guilty plea agreement included in Lattin's appendix on appeal is unsigned and does not contain the district court clerk's file-stamp in violation of NRAP 30(c)(1) ("All documents included in the appendix shall . . . bear the file-stamp of the district court clerk, clearly showing the date the document was filed in the proceedings below."). *See* NRAP 3C(e)(2)(C); *see also* NRAP 10(a) (defining "[t]he trial court record"); NRAP 10(b)(1). The State, however, does not contest its validity; therefore, to expedite the resolution of this appeal, we will consider the document.

NRS 174.035(3) or indication that Lattin sought to reserve the right to challenge any specified pretrial rulings. Instead, the district court was simply informed that "Lattin maintains his right to file an appeal." Because there is no indication in the record that Lattin reserved the right to raise claims (1)-(4) in the paragraph above pursuant to NRS 174.035(3), we decline to consider them. Accordingly, we

ORDER the judgment of conviction AFFIRMED.[4]

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

Saitta, J.
Saitta

cc: Hon. Kathleen E. Delaney, District Judge
Law Offices of John G. Watkins
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

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[4]The fast track statement and reply submitted by Lattin fail to comply with NRAP 3C(h)(1), NRAP 32(a)(5)(A), and NRAP 32(a)(6) because they use a typeface smaller than that allowed and are largely in bold-face type. Additionally, the 2-volume appendix submitted by Lattin fails to include an alphabetical index identifying each of the documents contained therein. NRAP 3C(e)(2)(C); NRAP 30(c)(2) ("If the appendix is comprised of more than one volume, one alphabetical index for all documents shall be prepared and shall be placed in each volume of the appendix."). Finally, despite this court's notice issued on July 10, 2013, counsel for Lattin failed to file a case appeal statement. Counsel for Lattin is cautioned that the failure to comply with this court's notices and rules of appellate procedure in the future may result in the imposition of sanctions. *See* NRAP 3C(n).