

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMPSON KEITH YAZZIE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35865

FILED

MAR 30 2004

ORDER OF REVERSAL AND REMAND

JANET H. BLOOM
CLERK OF SUPREME COURT
BY: *Richard*
CHIEF DEPUTY CLERK

Thompson Keith Yazzie appeals from a judgment of conviction entered pursuant to an Alford¹ plea of involuntary manslaughter.²

On appeal, Yazzie raises several arguments, including the voluntariness of his plea. Because we agree that Yazzie's plea was not voluntarily made, we need not address Yazzie's remaining arguments.

In deciding whether to permit a defendant an opportunity to withdraw a plea, the reviewing court must consider the totality of the circumstances to determine whether the defendant entered a plea voluntarily, knowingly, and intelligently.³ This court has observed, "A plea of guilty must be the result of an informed and voluntary decision, not the product of coercion."⁴ This court has recognized that judicial

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

²Yazzie was sentenced to a term of a minimum of twenty-four (24) months and a maximum of ninety-six (96) months in prison with credit for time served.

³Crawford v. State, 117 Nev. 718, 722, 30 P.3d 1123, 1125-26 (2001).

⁴Standley v. Warden, 115 Nev. 333, 336, 990 P.2d 783, 785 (1999).

involvement in plea negotiations inevitably carries with it an increased risk of coercion.⁵

The situation presented in this appeal is similar to the one examined in Standley v. Warden.⁶ In Standley, this court determined that the district court judge “did more than facilitate the plea negotiations or make an isolated comment about the plea offer”; rather, “the judge effectively convinced appellant to accept the plea offer through lengthy exposition.”⁷ This court further determined that by repeatedly referring to his prior experience as a criminal attorney, the judge “adopted the role of counselor to a criminal defendant, forgoing his duty as ‘a neutral arbiter of the criminal prosecution.’”⁸ Thus, this court concluded the judge induced Standley to accept the plea offer.⁹

Despite this court’s warning against an expansive interpretation of Standley,¹⁰ we conclude that it is applicable in this instance given the similarities of the judges’ actions in both cases. Applying Standley, we conclude that Yazzie’s plea was the result of judicial coercion. Therefore, Yazzie should be afforded an opportunity to withdraw his plea.

⁵Id.

⁶115 Nev. 333, 990 P.2d 783 (1999).

⁷Id. at 337, 990 P.2d at 785.


⁸Id. (quoting United States v. Bruce, 976 F.2d 552, 556 n.3 (1992)).


⁹Id. at 337, 990 P.2d at 785.

¹⁰Id.

Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.¹¹


_____, J.
Rose


_____, J.
Maupin

cc: Hon. Jackie Glass, District Judge
Gary E. Gowen
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

¹¹This matter was submitted for decision by a panel of this court comprised of Justices Rose, Leavitt, and Maupin. Justice Leavitt having died in office on January 9, 2004, this matter was decided by a two-justice panel.