

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT ALLEN GOODLOW,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 64499

**FILED**

JAN 21 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of attempted sexual assault with the use of a deadly weapon and battery with the intent to commit a crime. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Appellant claims that the district court erred by denying his presentence motion to withdraw his guilty plea. Appellant argues that the district court improperly applied the test for an ineffective-assistance-of-counsel claim instead of determining whether he had advanced a substantial, fair, and just reason for withdrawing his plea. However, the primary reason that appellant advanced for withdrawing his guilty plea was ineffective assistance of counsel.

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).

A defendant who pleads guilty upon the advice of counsel may attack the validity of the guilty plea by showing that he received ineffective assistance of counsel under the Sixth Amendment to the United States Constitution. The applicable test to determine whether counsel was ineffective is set forth in *Strickland v. Washington*, [466 U.S. 668 (1984)].

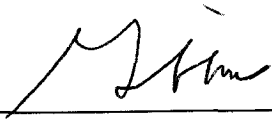
*Nollette v. State*, 118 Nev. 341, 348-49, 46 P.3d 87, 92 (2002) (internal footnote omitted). "On appeal from a district court's denial of a motion to withdraw a guilty plea, [we] will presume that the lower court correctly assessed the validity of the plea, and we will not reverse the lower court's 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).

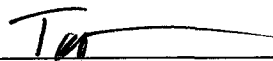
The district court conducted an evidentiary hearing and found, among other things, that appellant's claims of ineffective-assistance were either bare assertions or belied by the record, appellant's claims that he was depressed and unable to make rational decisions as a result of counsel's ineffectiveness and that he was not given enough time to review the guilty plea agreement were belied by the record, and appellant failed to show prejudice stemming from counsel's representation. The record on appeal supports the district court's factual findings and we conclude that appellant has not demonstrated that counsel was ineffective; established a substantial, fair, and just reason for withdrawing his plea; or shown that the district court abused its discretion by denying his motion to withdraw his guilty plea. *See Molina v. State*, 120 Nev. 185, 190, 87 P.3d 533, 537

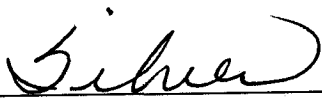
(2004) (defendant bears the burden of showing that the plea is invalid).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Douglas Smith, District Judge  
Drummond Law Firm  
Mace J. Yampolsky, Ltd.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk