

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS ANGEL CANDELAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64626

FILED

OCT 15 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of battery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant Luis Angel Candelas contends that the district court erred by denying his presentence motion to withdraw his guilty plea. A district court may grant a presentence motion to withdraw a guilty plea for any substantial reason that is just and fair. *Crawford v. State*, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001); *State v. Second Judicial Dist. Court*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969); see NRS 176.165. "To determine whether the defendant advanced a substantial, fair, and just reason to withdraw a plea, the district court must consider the totality of the circumstances to determine whether the defendant entered the plea voluntarily, knowingly, and intelligently." *Crawford*, 117 Nev. at 721-22, 30 P.3d at 1125-26. "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).

First, Candelas argues that district court erred by denying the motion to withdraw his guilty plea because he was coerced into pleading guilty by counsel. This claim was not raised below, and we decline to consider it in the first instance on appeal. *See Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004).

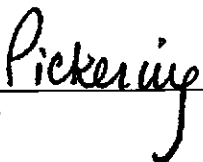
Second, Candelas argues that the district court erred by denying the motion to withdraw his guilty plea because there were questions regarding Candelas's competency at the time he pleaded guilty. Candelas claims that he told trial counsel he didn't feel well before the start of trial, sent a request for a visit to the psychiatric unit, was subsequently provided psychiatric medications after the entry of his plea, and had been sent to Lake's Crossing for a competency evaluation years previously, all of which demonstrated that an evaluation into his competency was warranted. A defendant is competent to stand trial, and enter a guilty plea, if he has sufficient ability to consult with his lawyer with a reasonable degree of understanding and can comprehend the proceedings against him. *See NRS 178.400(2); Riker*, 111 Nev. at 1324, 905 P.2d at 711 (holding that there is not higher standard of competency required to plead guilty than to stand trial); *Melchor-Gloria v. State*, 99 Nev. 174, 179-80, 660 P.2d 109, 113 (1983). "A hearing to determine a defendant's competency is constitutionally and statutorily required where a reasonable doubt exists on the issue," but "[w]hether such a doubt is raised is within the discretion of the trial court." *Melchor-Gloria*, 99 Nev. at 180, 660 P.2d at 113.

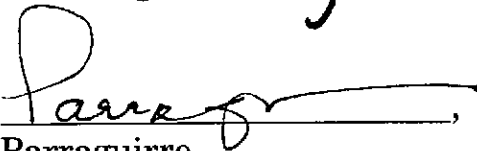
Here, the district court found that, at the time of the plea, Candelas responded directly to questions, was articulate and smart, made good eye contact, had a normal, straightforward affect, understood the intricacies of the court system, and engaged with the district court, the co-

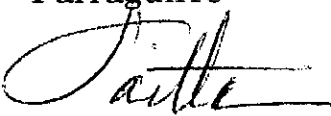
defendant, and counsel during the entire process. He further found that Candelas clearly remembered what happened at trial.¹ The district court's determination that Candelas failed to demonstrate a reasonable doubt as to his competency is supported by substantial evidence. Accordingly, we conclude that the district court did not abuse its discretion in denying this claim.

Third, Candelas contends that the district court improperly participated in plea negotiations. Candelas claims that the district court's representations of possible probation induced him to plead guilty. Candelas fails to demonstrate that the district court participated in the formulation of the plea agreement when it answered Candelas's questions and refused to commit to any particular sentencing structure. *See Cripps v. State*, 122 Nev. 764, 770-71, 137 P.3d 1187, 1191 (2006). We discern no error by the district court in this regard. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

¹Candelas pleaded guilty mid-trial.

cc: Hon. David B. Barker, District Judge
Elizabeth Macias Quillin
Sanft Law, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk