

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHONDARI LEMONT SMITH A/K/A
SHONDARI LAMONT SMITH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66206

FILED

MAR 11 2015

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

ORDER OF AFFIRMANCE

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

Appellant Shondari Smith contends that the district court erred in denying his presentence motion to withdraw his guilty plea because it was not entered into knowingly, voluntarily, or intelligently. Smith claims that he only accepted the plea offer because he believed it would afford him special mental health treatment in prison. We conclude that Smith is not entitled to relief.

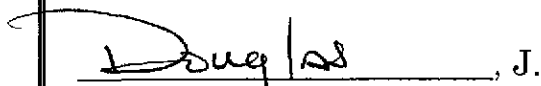
We review the district court's determination for an abuse of discretion. *Crawford v. State*, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001). "District courts may grant a motion to withdraw a guilty plea prior to sentencing for any substantial, fair, and just reason." *Id.*; see NRS 176.165. However, "a defendant has a heavy burden to show the district court that" his guilty plea was invalid. *Molina v. State*, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004). Here, the district court conducted an evidentiary hearing, heard testimony from Smith and his former counsel, and denied the motion. Former counsel testified that although Smith indicated he

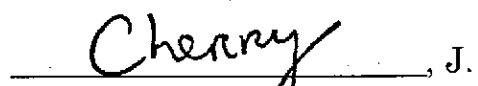
wanted mental health treatment, counsel never said anything to lead Smith to believe he was pleading guilty but mentally ill or that he would be sent to a mental health facility. Counsel further testified that he told Smith that Smith would receive limited counselling and medication while in prison and that it was only after the entry of the guilty plea that Smith contacted him to say he wanted to be sent to a mental health facility.

The district court found that former counsel was credible and that the State did not offer a guilty-but-mentally-ill plea option. Our review of the record reveals that Smith failed to provide a substantial, fair, and just reason which required the withdrawal of his plea. Because Smith failed to satisfy his burden and prove that his plea was invalid, we conclude that the district court did not abuse its discretion by denying his motion. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


Parraguirre


Douglas


Cherry

cc: Eighth Judicial District Court Dept. 20
Monique A. McNeill
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk