

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY K. ANDERSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65290

**FILED**

**NOV 19 2015**

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

*ORDER OF AFFIRMANCE*

This is an appeal under NRAP 4(c) from a judgment of conviction entered pursuant to a guilty plea of two counts of child abuse and neglect with substantial mental injury. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.<sup>1</sup>

Appellant Anthony Anderson claims the district court erred by denying his presentence motion to withdraw his guilty plea.

A defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and the district court may, in its discretion, grant such a motion for any substantial reason that is “fair and just,” *State v. Second Judicial Dist. Court* (Bernardelli), 85 Nev. 381, 385, 455 P.2d 923, 926 (1969). To this end, the Nevada Supreme Court has recently ruled that “the district court must consider the totality of the circumstances to determine whether permitting withdrawal of a guilty plea before sentencing would be fair and just,” and it has disavowed the


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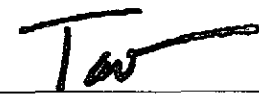
<sup>1</sup>The Honorable Donald M. Mosley, retired District Judge, conducted an evidentiary hearing, heard argument, and ruled on Anderson’s presentence motion to withdraw his guilty plea.

standard previously announced in *Crawford v. State*, 117 Nev. 718, 30 P.3d 1123 (2003), which focused exclusively on whether the plea was knowingly, voluntarily, and intelligently made. *Stevenson v. State*, 131 Nev. \_\_\_, \_\_\_, 354 P.3d 1277, 1281 (2015).

In his motion to withdraw his guilty plea, Anderson claimed he was unaware that one of the victims had recanted her statement when he agreed to enter the guilty plea. The district court conducted an evidentiary hearing, considered the documents filed in the matter, and found the victim's repudiation of her initial accusation was incredible, Anderson had made "a very determined effort . . . to have people back off of their initial accusations," and there was no basis for withdrawing the guilty plea. The record demonstrates the district court applied the correct standard and we conclude the district court did not abuse its discretion by denying Anderson's motion. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

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

cc: Hon. Kathleen E. Delaney, District Judge  
Law Office of Julian Gregory, L.L.C.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk