

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CARLOS GUIZAR BARAJAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67650

FILED

DEC 17 2015

TESSIE K. LINDEMAN
CLERK OF APPELLATE COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of first-degree murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Appellant Carlos Barajas claims the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. Barajas argues that he did not understand the guilty plea agreement, he felt pressured by defense counsel to enter a guilty plea, and he was confused as to whether the district court would impose a sentence more lenient than the sentence he agreed to.

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 standard previously announced in *Crawford v. State*, 117 Nev. 718, 30 P.3d 1123 (2001), which focused exclusively on whether the plea was knowingly, voluntarily, and intelligently made. *Stevenson v. State*, 131 Nev. ___, ___, 354 P.3d 1277, 1281 (2015).

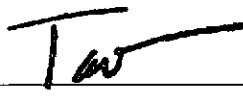
Here, the district court conducted an evidentiary hearing and made the following factual findings on the record. Barajas’ claim that he did not understand the plea agreement was belied by both the paper record and the plea canvass. Barajas acknowledged that he read the Spanish version of the written plea agreement, the record revealed there was an interpreter present during the plea canvass, and Barajas testified that he understood the bargain he was entering into but did not like the choice he had to make. Barajas’ claim that he was pressured into entering the guilty plea lacked merit. Defense counsel Christy Craig did not pressure Barajas into entering the guilty plea during defense counsel Joseph Abood’s absence because Abood was present during the plea canvass and Barajas could have talked to him. Barajas had the same pressure every criminal defendant has—at some point a defendant has to decide whether to accept the plea negotiation or proceed to trial. Barajas’ claim that he was confused about his possible sentence lacked merit because the court had explained to him that he was agreeing to life without the possibility of parole and Barajas indicated he understood the sentence he was agreeing to. The district court concluded after a full hearing that Barajas’ claims did not warrant withdrawal of his guilty plea.

The record demonstrates the district court applied the correct standard for evaluating a presentence motion to withdraw a guilty plea,

Barajas failed to demonstrate a fair and just reason for withdrawing his plea, and the district court did not abuse its discretion by denying Barajas' presentence motion. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Douglas W. Herndon, District Judge
Special Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk