

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WAHEED FEDA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69991

FILED

NOV 18 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of obtaining money under false pretenses. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant Waheed Feda claims the district court abused its discretion by denying his motion for reconsideration of his presentence motion to withdraw his guilty plea. The district court denied Feda's motion for reconsideration because the motion was not timely filed, *see* EDCR 2.24(b), and because Feda did not identify any new facts the court failed to consider or allege the court misinterpreted any point of law. We conclude the district court did not abuse its discretion by denying Feda's motion for reconsideration.

Feda also claims he was denied his right to counsel of his choice before entering his guilty plea.

At a calendar call, it was initially represented that the parties had reached negotiations in two cases. The terms included Feda pleading

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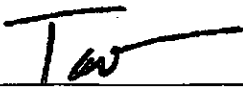
guilty in district court case number C293485, and, after sentencing in case number C293485, the State would not oppose dismissal of the matter in district court case number C301618. When the district court asked Fedá whether he wished to accept the negotiated terms, Fedá stated he was only pleading guilty because, due to the cost of a retainer, he could not afford to hire a private attorney for forty-five to sixty days. Upon further discussion, Fedá stated he was innocent of the charge. The judge stopped the proceedings, said he would refer case number C293485 back to the department handling that case, and informed Fedá the trial in case number C301618 would proceed as scheduled and he would need to appear the next day in front of the overflow department. Approximately two hours later, Fedá asked to have the matter recalled and he returned with his counsel, informing the judge he wished to accept the negotiations as previously outlined. The judge then conducted the plea canvass and accepted Fedá's plea.

Even assuming the above exchange could be construed as a request to substitute counsel and a denial of such a request, Fedá waived any right to challenge any such denial because he did not expressly preserve the issue when he pleaded guilty. *See* NRA 174.035(3); *Webb v. State*, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (“[A] guilty plea represents a break in the chain of events which has preceded it in the criminal process . . . [A defendant] may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea.” (first alteration in original) (quoting

Tollet v. Henderson, 411 U.S. 258, 267 (1973))). Therefore we decline to consider this claim, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Stefany Miley, District Judge
Hofland & Tomsheck
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk