


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FRANK LEE WILLIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72845

FILED

SEP 13 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Frank Lee Willis appeals from a judgment of conviction entered pursuant to a guilty plea of attempted burglary. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Willis claims the district court erred by denying his request to continue sentencing so he could obtain a substance abuse evaluation and attend in-patient treatment prior to sentencing.¹


We review a district court's decision to grant or deny a motion for continuance for an abuse of discretion. *Higgs v. State*, 126 Nev. 1, 9, 222 P.3d 648, 653 (2010). "Each case turns on its own particular facts, and much weight is given to the reasons offered to the trial judge at the time the request for a continuance is made." *Id.* "However, if a defendant fails to demonstrate that he was prejudiced by the denial of the continuance, then

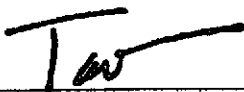
¹Willis did not request the continuance to obtain in-patient treatment prior to sentencing. Therefore, we decline to consider this claim in the first instance. *Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004).

the district court's decision to deny the continuance is not an abuse of discretion." *Id.*

At sentencing, Willis requested a continuance in order to complete a substance abuse evaluation. The district court denied the motion because Willis could tell the district court about his substance abuse problems and the district court could grasp the magnitude of those problems. The district court, during sentencing, had a colloquy with Willis regarding his substance abuse problems and how they affected him in terms of the instant crime. The district court also put a strong recommendation in the judgment of conviction that Willis should receive substance abuse treatment while in prison. Given this record, we conclude Willis has not demonstrated prejudice and, therefore, the district court's decision to deny the continuance was not an abuse of discretion. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Chief Judge, Second Judicial District Court
Second Judicial District Court, Department 1
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk