

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAIMON DEVI HOYT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 70556

**FILED**

SEP 13 2017

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

*ORDER OF AFFIRMANCE*

Daimon Devi Hoyt appeals from a judgment of conviction, entered pursuant to an *Alford*<sup>1</sup> plea, of sexually motivated coercion and child abuse, neglect, or endangerment. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Hoyt argues the district court erred in denying his presentence motion to withdraw his guilty plea. A defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and “a district court may grant a defendant's motion to withdraw his guilty plea before sentencing for any reason where permitting withdrawal would be fair and just,” *Stevenson v. State*, 131 Nev. \_\_\_, \_\_\_, 354 P.3d 1277, 1281 (2015). In considering the motion, “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.” *Id.*

In his motion, Hoyt asserted he should be entitled to withdraw his plea because he recently discovered the police conducted an illegal search of his residence. Hoyt based his claim upon an assertion the search

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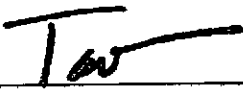
<sup>1</sup>*North Carolina v. Alford*, 400 U.S. 25 (1970).


was conducted prior to the date listed on the search warrant. The district court stated it had reviewed all of the evidence regarding this case and the evidence Hoyt provided in support of his motion. The district court found Hoyt's claim regarding the search warrant was belied by the record. The district court concluded upon review of the evidence in this matter that Hoyt did not present a fair and just reason to withdraw his plea.

We conclude Hoyt has not demonstrated the district court abused its discretion by denying his motion to withdraw his guilty plea.<sup>2</sup> See *Hubbard v. State*, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). Therefore, Hoyt fails to demonstrate he is entitled to relief, and we

ORDER the judgment of conviction AFFIRMED.

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

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

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

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<sup>2</sup>The record before this court does not contain a copy of the search warrant at issue in Hoyt's motion to withdraw guilty plea. We remind Hoyt it is his burden to provide this court with an appropriate record with which to review his claims. See NRAP 30(b)(3); *McConnell v. State*, 125 Nev. 243, 256 n.13, 212 P.3d 307, 316 n.13 (2009).

cc: Hon. Kathleen E. Delaney, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk