

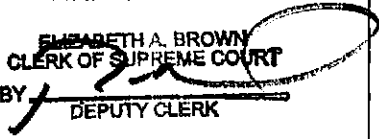
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CARL THOMAS LARSEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72727

FILED

MAR 14 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE


Carl Thomas Larsen appeals from a judgment of conviction, pursuant to a guilty plea, for assault with the use of a deadly weapon and battery constituting domestic violence. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

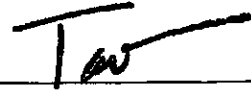
Larsen contends the district court erred by denying his motion to withdraw his guilty plea without first conducting an evidentiary hearing. A defendant may move to withdraw a guilty plea before sentencing. NRS 176.165. In deciding such a motion, the district court must not focus solely on the validity of the plea but rather “must consider the totality of the circumstances to determine whether permitting withdrawal of a guilty plea before sentencing would be fair and just.” *Stevenson v. State*, 131 Nev. ___, ___, 354 P.3d 1277, 1281 (2015). A defendant is entitled to an evidentiary hearing on such a motion when he makes specific factual allegations that, if true and not belied by the record, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

Larsen sought to withdraw his guilty plea on the ground that counsel coerced him into pleading by wrongly stating Larsen was eligible for probation. Larsen’s allegation of misinformation did not describe an act

of coercion. *See Coerce, Black's Law Dictionary* (10th ed. 2014) ("To compel by force or threat."). Further, Larsen's claim that he learned he had entered into an agreement for a stipulated sentence only two days before sentencing was belied by the record. Larsen acknowledged in his guilty plea agreement and in his plea canvass that he understood the parties had stipulated to sentences for each count. Finally, even assuming Larsen's claim that he believed he was eligible for probation were true, he would not have been entitled to relief where he received the sentence he bargained for. Accordingly, we conclude the district court did not err in denying Larsen's motion to withdraw his guilty plea without first conducting an evidentiary hearing, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Douglas Smith, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk