


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JACK FERM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73992

FILED

JUL 17 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Jack Ferm appeals from a judgment of conviction entered pursuant to a plea of no contest to the crime of theft—obtaining money in excess of \$2,500.00 by material misrepresentation. Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.

Ferm claims the district court erred by denying his presentence motion for specific performance of the amended no contest plea agreement. He argues the State violated the plea agreement's implied covenant of good faith and fair dealing by disseminating false information to a news reporter that he had been convicted of felony theft. And he asserts this violation interfered with his ability to fulfill his obligations under the amended plea agreement.

“When the State enters into a plea agreement, it is held to the most meticulous standards of both promise and performance with respect to both the terms and the spirit of the plea bargain.” *Sparks v. State*, 121 Nev. 107, 110, 110 P.3d 486, 487 (2005) (internal quotation marks omitted).

18-901520

Here, the district court found that Ferm failed to present sufficient facts to show the State violated the terms of the amended plea agreement and the implied covenant of good faith and fair dealing. Because the district court's factual finding is supported by the record on appeal, we conclude Ferm failed to demonstrate the plea agreement was breached and the district court did not err by denying his motion.

Ferm also claims the district court erred by denying his presentence motion to withdraw his no contest plea. He argues that his plea was not entered knowingly and intelligently and the district court's failure to conduct an adequate plea canvass under the unique circumstances of his case constituted a fair and just reason to permit him to withdraw his plea.


The district court reviewed the pleadings, transcripts, and exhibits on file in this case and made the following findings. Ferm voluntarily, knowingly, and intelligently entered his no contest plea. The plea canvass was sufficient to determine whether Ferm understood the amended no contest plea agreement. And Ferm failed to demonstrate a fair and just reason to withdraw his plea.

The record demonstrates the district court applied the correct standard for resolving Ferm's presentence motion to withdraw his guilty plea, *see Stevenson v. State*, 131 Nev. 598, 604, 354 P.3d 1277, 1281 (2015), and we conclude the district court did not abuse its discretion by denying Ferm's motion, *see State v. Second Judicial Dist. Court (Bernardelli)*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969) (The district court's ruling on a

presentence motion to withdraw a guilty plea "is discretionary and will not be reversed unless there has been a clear abuse of that discretion.").

Having concluded Ferm is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Kerry Louise Earley, District Judge
Coyer Law Office
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk