

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CAROLINE LOUISE BROWN, A/K/A
CAROLINE LOUISE STEIN, A/K/A
CAROLINE LOUISE DELLINGER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74845-COA

FILED

FEB 13 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER AFFIRMING IN PART, REVERSING IN PART, VACATING
JUDGMENT OF CONVICTION, AND REMANDING*

Caroline Louise Brown appeals from a judgment of conviction, entered pursuant to a guilty plea, of three counts of obtaining money by false pretenses. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Brown argues the district court erred by denying her presentence motion to withdraw her guilty plea. Brown claims her motion should have been granted because she reasonably believed she could change her mind about the plea, her mental health and psychiatric history demonstrated her plea was invalid, counsel was ineffective, she felt rushed into entering the plea, she was actually innocent of the charges, and the State would not be prejudiced by a withdrawal of the 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. 598, 604, 354 P.3d 1277, 1281 (2015). To this end, the Nevada Supreme Court has disavowed the standard previously announced in *Crawford v. State*, 117 Nev. 718, 30 P.3d 1123 (2001), which focused exclusively on whether the plea was knowingly, voluntarily, and intelligently made, and affirmed that “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.” *Stevenson*, 131 Nev. at 603, 354 P.3d at 1281.


We conclude the district court abused its discretion by denying the presentence motion to withdraw. The district court incorrectly concluded it could not consider Brown’s innocence claim. *Stevenson* states the district court may grant the motion for *any reason* where permitting withdrawal would be fair and just, 131 Nev. at 604, 354 P.3d at 1281, and the Nevada Supreme Court has previously found having a credible claim of innocence was a fair and just reason to grant a motion to withdraw. *Mitchell v. State*, 109 Nev. 137, 141, 848 P.2d 1060, 1062 (1993). Further, we conclude that because the district court erred by declining to consider Brown’s innocence claim, it also erred by denying Brown’s claim of ineffective assistance of counsel related to the innocence claim. Therefore, we reverse the denial of the motion to withdraw, vacate the judgment of conviction, and remand to the district court to consider Brown’s innocence claim and her related ineffective-assistance-of-counsel claim.¹ If, upon

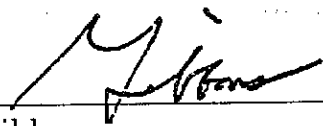
¹We express no opinion regarding the merit of either claim.

remand, the district court determines Brown failed to demonstrate a fair and just reason for withdrawing her guilty plea, the district court may reinstate the judgment of conviction. Accordingly, we

ORDER the judgment of conviction AFFIRMED IN PART, REVERSED IN PART, VACATED, AND WE REMAND this matter to the district court for proceedings consistent with this order.²


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Douglas Smith, District Judge
Law Office of Christopher R. Oram
Terrence M. Jackson
Attorney General/Las Vegas
Eighth District Court Clerk

²We conclude the district court did not abuse its discretion by denying the other claims raised in Brown's presentence motion to withdraw her guilty plea. See *Stevenson*, 131 Nev. at 604, 354 P.3d at 1281.