IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL LEONETTI A/K/A MICHAEL
BIONDO,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36980

FILED

JAN 02 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY _____
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal, pursuant to a guilty plea, of one count of attempted sexual assault with a minor under sixteen years of age. The district court sentenced appellant Michael Leonetti to serve a prison term of 96 to 240 months.

Leonetti contends that his guilty plea was not knowing and voluntary because the district court conducted an insufficient plea canvass and because his trial counsel had an actual conflict of interest. We decline to consider Leonetti's contention on direct appeal.

As Leonetti acknowledges, this court has stated that it will no longer permit a defendant to challenge the validity of a guilty plea on direct appeal from the judgment of conviction. Instead, a defendant must raise a challenge to the validity of his or her guilty plea in the district court in the first instance, either by bringing a motion to withdraw the guilty plea or by initiating a post-conviction proceeding.[1] Leonetti argues that the error in this case is clear from the record, and therefore this court should consider the validity of the plea agreement on direct appeal as it did in Lyons v. State[2] and Smith v. State.[3] We conclude that the issues raised in this appeal are not similar to the issues raised in Lyons and Smith, and that an exception to the general rule stated in Bryant v. State

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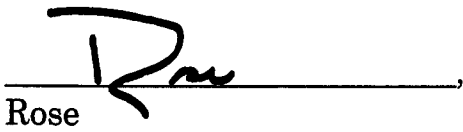[1]Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).
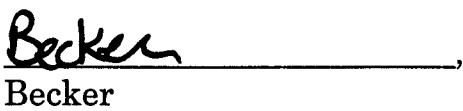
[2]105 Nev. 317, 775 P.2d 219 (1989).

[3]110 Nev. 1009, 879 P.2d 60 (1994).

02-00027

is not warranted in this case. Leonetti must pursue his claims in the district court in the first instance. Accordingly, we

ORDER this appeal DISMISSED.

_____, J.
Shearing

_____, J.
Rose

_____, J.
Becker

cc: Hon. John S. McGroarty, District Judge
     Attorney General/Carson City
     Clark County District Attorney
     William J. Taylor
     Clark County Clerk