

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVIE TRUMAINE RATLIFF,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67918

**FILED**

NOV 19 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Appellant Stevie Ratliff claims the district court erred by denying his presentence motion to withdraw his guilty plea.

A defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and the district court may, in its discretion, grant such a motion for any substantial reason that is "fair and just," *State v. Second Judicial Dist. Court* (Bernardelli), 85 Nev. 381, 385, 455 P.2d 923, 926 (1969). To this end, the Nevada Supreme Court has recently ruled 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," and it has disavowed the standard previously announced in *Crawford v. State*, 117 Nev. 718, 30 P.3d 1123 (2003), which focused exclusively on whether the plea was

knowingly, voluntarily, and intelligently made. *Stevenson v. State*, 131 Nev. \_\_\_, \_\_\_, 354 P.3d 1277, 1281 (2015).

In his motion to withdraw his guilty plea, Ratliff claimed he had “reacquired a piece of evidence—once believed lost—that he believes is exculpatory in nature.”<sup>1</sup> He stated “his belief that this [evidence] had been lost caused him to believe he had no viable defense and therefore no other choice than to accept the State’s plea bargain.” And he asserted he “is not aware of any prejudice that might result to the State if [he] is permitted to withdraw his guilty plea.”


The district court held a hearing on Ratliff’s motion, the parties submitted the issue on the pleadings, and the district court ruled, “I have admissions of guilt that you guys made at the time I took your plea. They appear to me to be knowingly and voluntarily made, and for that reason, I’m not gonna let you withdraw your plea.” Although the district court may have reached the correct result under the *Crawford* standard, because the standard for deciding presentence motions to withdraw guilty pleas has changed during the pendency of this appeal, we conclude the judgment of conviction must be reversed for consideration of Ratliff’s motion under the standard set forth in *Stevenson*. See *Tien Fu Hsu v. Cnty. of Clark*, 123 Nev. 625, 632, 173 P.3d 724, 729-30 (2007) (“[W]hen the controlling law of this state is substantially changed during the pendency of a remanded matter at trial or on appeal, courts of this


---


<sup>1</sup>The evidence is a letter, which Ratliff claims was written by his codefendant and indicates he had nothing to do with the charged offenses.

state may apply that change to do substantial justice.” (emphasis added)).  
Accordingly, we

ORDER the judgment of conviction REVERSED AND  
REMAND this matter to the district court for proceedings consistent with  
this order.

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

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

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

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Coyer Law Office  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk