


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ADRIEL SOSA ARCIQUE AKA ADRIEL
ARCIQUE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75956-COA

FILED

JUL 31 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Adriel Sosa Arcique appeals from a judgment of conviction entered pursuant to an *Alford*¹ plea of battery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Arcique claims the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. He argues he “was kept in the dark by prior counsel about the possible defenses to his case, the discovery to be had, and the inconsistencies in accounts between eyewitnesses.” And he asserts he did not enter his guilty plea knowingly or voluntarily.

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, 603-04, 354 P.3d 1277, 1281 (2015). “On appeal from a district court’s denial of a motion to withdraw a guilty plea, [we] will presume that the

¹See *North Carolina v. Alford*, 400 U.S. 25 (1970).


lower court correctly assessed the validity of the plea, and we will not reverse the lower court's determination absent a clear showing of an abuse of discretion." *Riker v. State*, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995) (internal quotation marks omitted).

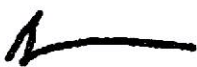
The district court conducted an evidentiary hearing on Arcique's motion and made the following findings: Defense counsel testified credibly. Counsel considered "any witnesses who may [have been] available to testify in this case and [were able] to refute any statements made by the alleged victim." He discussed the strengths and weaknesses of the discovery, the strengths and weaknesses of the case, and the pros and cons of accepting the plea offer with Arcique. He also informed Arcique of the potential sentencing consequences of accepting the plea offer or proceeding to trial. The district court concluded from the totality of the circumstances that Arcique entered his *Alford* plea freely and voluntarily.

The record supports the district court's findings, and we conclude the district court did not abuse its discretion by denying Arcique's presentence motion to withdraw his guilty plea. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Stefany Miley, District Judge
Law Offices of John P. Parris
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk