

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CURTIS WASHINGTON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 70630

**FILED**

APR 19 2017

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

*ORDER OF AFFIRMANCE*

Curtis Washington appeals from his judgment of conviction, entered pursuant to an *Alford*<sup>1</sup> plea, of attempted sexual assault on a minor under the age of 14 and attempted lewdness on a minor under the age of 14. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Washington claims the district court erred by denying his presentence motion to withdraw a guilty plea. He claims his plea was not knowingly entered and he should have been able to withdraw his plea because he did not understand he could be sentenced to more than 2 years on the minimum term and he did not understand what consecutive meant.

A defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and "a district court may grant a defendant's

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<sup>1</sup>*North Carolina v. Alford*, 400 U.S. 25 (1970).

motion to withdraw his guilty plea before sentencing for any reason where permitting withdrawal would be fair and just,” *Stevenson v. State*, 131 Nev. \_\_\_, \_\_\_, 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 \_\_\_, 354 P.3d at 1281.


The district court heard argument on the motion to withdraw, but did not conduct an evidentiary hearing. The district court decided, based on the totality of the circumstances, Washington failed to demonstrate any basis for withdrawing his plea. After hearing argument from the parties, the district court found Washington had indicated he read and understood the plea agreement, he had a chance to discuss it with counsel, he was informed the sentences could be consecutive or concurrent, and he was informed the minimum sentence could not be less than 2 years and could not be more than 40% of the maximum sentence.

We conclude the record supports the district court’s findings, Washington failed to demonstrate a fair and just reason for withdrawing

his guilty plea, and the district court did not abuse its discretion by denying Washington's presentence motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

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

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Gary A. Modafferi  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>2</sup>We also deny Washington's claim a defendant must be informed of the potential "worst case scenario" he could face as a result of his plea in order for a guilty plea to be valid. Washington was informed in the plea agreement and during the plea canvass he faced a minimum of not less than 2 years in prison and a maximum term of 20 years for each count, the minimum could not be more than 40% of the maximum, and the sentences could be run concurrent or consecutive. Therefore, he was adequately informed of the potential consequences of his plea.