

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEVON EDWARD COOPER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69693

FILED

FEB 23 2017

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

ORDER OF AFFIRMANCE

Appellant Devon Edward Cooper appeals from a judgment of conviction, pursuant to a guilty plea, of possession of a stolen vehicle and stop required on signal of a police officer. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Cooper argues the district court erred in denying his presentence motion to withdraw his guilty 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. ___, ___, 354 P.3d 1277, 1281 (2015). In considering the motion, “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.” *Id.*


In his motion, Cooper asserted he should be entitled to withdraw his guilty plea because he entered his plea with the belief that he would be eligible to serve his prison term at a conservation camp. Cooper asserted he later discovered he would not be eligible due to the nature of his convictions. At the plea canvass, the district court advised

Cooper the Nevada Department of Corrections determined a prisoner's assignment to a correctional facility and Cooper could not be guaranteed assignment to a conservation camp. Cooper then responded that he still wished to enter a guilty plea. The district court concluded Cooper was aware he may not receive an assignment to a conservation camp when he entered his plea, and, therefore, did not demonstrate a fair and just reason to withdraw his guilty plea.

The record supports the district court's conclusion and we determine Cooper has not demonstrated the district court abused its discretion by denying his motion to withdraw his guilty plea. *See State v. Second Judicial Dist. Court (Bernardelli)*, 85 Nev. 381, 385, 455 P.2d.923, 926 (1969) (The district court's ruling on a presentence motion to withdraw a guilty plea "is discretionary and will not be reversed unless there has been a clear abuse of that discretion."). Accordingly, we

ORDER the judgment of conviction AFFIRMED.¹


_____, C.J.
Silver


_____, J.
Gibbons

¹The Honorable Jerome T. Tao, Judge, did not participate in the decision in this matter.

cc: Hon. Eric Johnson, District Judge
Michael R. Pandullo
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk