

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DWIGHT CONRAD SOLANDER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76405-COA

FILED

JAN 14 2020

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

ORDER OF AFFIRMANCE

Dwight Conrad Solander appeals from a judgment of conviction entered pursuant to a guilty plea of three counts of child abuse, neglect, or endangerment resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Solander claims that the State erred by charging him with sexual assault because by doing so it misconstrued NRS 200.366 to reach an absurd result, the plain language of NRS 200.366 requires proof of sexual intent, and the subsequent amendments to NRS 200.366 demonstrate that it does not apply to medical devices such as catheters.

Solander raised these same claims in his pretrial petition for a writ of habeas corpus, and we decline to consider them for the following reasons: First, he was not convicted of sexual assault and therefore his claims are moot. *See Nat'l Collegiate Athletic Ass'n v. Univ. of Nev., Reno*, 97 Nev. 56, 58, 624 P.2d 10, 11 (1981). Second, he failed to preserve his claims for appeal as required by NRS 174.035(3). And, third, his claims are barred by the doctrine of the law of the case because they were previously decided on interlocutory appeal by the Nevada Supreme Court. *See Hall v.*

State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975); *State v. Solander*, Docket Nos. 67710 & 67711 (Order of Reversal and Remand, April 19, 2016).


Solander also claims that his guilty plea is invalid because it was entered to avoid an excessive and unconstitutional prison sentence.

Generally, this court will not consider a challenge to the validity of a guilty plea on direct appeal from a judgment of conviction. *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); *but see Smith v. State*, 110 Nev. 1009, 1010-11 n.1, 879 P.2d 60, 61 n.1 (1994) (providing an exception to the rule announced in *Bryant* where the error is clear from the record). "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." *Bryant*, 102 Nev. at 272, 721 P.2d at 368.

Solander does not claim that he previously raised a challenge to the validity of his plea in the district court, and the alleged error does not clearly appear on the record. Therefore, we decline to consider this claim on direct appeal.

Having concluded Solander is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Valerie Adair, District Judge
Mueller & Associates
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk