

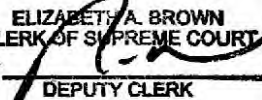
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID LAWRENCE BERNAL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77906-COA

FILED

FEB 11 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

David Lawrence Bernal appeals from a judgment of conviction entered pursuant to a guilty plea of aggravated stalking, second-degree kidnapping, and battery resulting in substantial bodily harm constituting domestic violence. Eighth Judicial District Court, Clark County; Michael Villani, Judge.


Bernal claims the district court abused its discretion 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 “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, 604, 354 P.3d 1277, 1281 (2015). 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.” *State v. Second Judicial Dist. Court (Bernardelli)*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969).

Bernal claimed that he should be allowed to withdraw his guilty plea because the State violated the terms and spirit of the plea agreement by seeking the unqualified right to argue for any lawful sentence. The

district court found that Bernal had not demonstrated a fair and just reason for permitting the withdrawal of his guilty plea because the State did not present any sentencing arguments—it merely requested permission to do so. The record supports the district court’s findings and demonstrates that the district court applied the correct standard for resolving Bernal’s motion. Accordingly, we conclude the district court did not abuse its discretion by denying Bernal’s presentence motion to withdraw his guilty plea, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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