

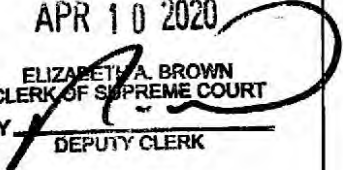
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHAHIED FARIC GOTOY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 79229-COA

**FILED**

APR 10 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Shahied Faric Gotoy appeals from a judgment of conviction entered pursuant to a guilty plea of possession of a controlled substance with intent to sell. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Gotoy argues the district court erred by denying his presentence motion to withdraw his guilty plea. In his motion, Gotoy claimed his plea was not entered knowingly, voluntarily, and intelligently because he did not have sufficient time to review the plea agreement and discuss it with his counsel. Gotoy also asserted his counsel should have requested additional time so that counsel could investigate and be prepared to discuss the case with him. As a result of the insufficient time to review the agreement, Gotoy asserted he mistakenly believed he would only spend another six or seven months in custody.

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). 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.* at 603, 354 P.3d at 1281.

The district court reviewed the record and found the record belied Gotoy’s claims. *See Hargrove v. State*, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984). At the plea canvass, Gotoy asserted he had read the written plea agreement, discussed it with his counsel, and understood the agreement. In the written plea agreement and at the plea canvass, Gotoy asserted he understood the charge, the potential sentence he faced, and that he had not been guaranteed a particular sentence. In the written plea agreement and at the plea canvass, Gotoy acknowledged he understood the parties stipulated to a 19 to 48 month sentence, but the district court would make the ultimate decision regarding his sentence. In addition, Gotoy acknowledged in the written plea agreement and at the plea canvass that he had reviewed the case and discussed possible defenses with counsel and, as a result, concluded entry of a guilty plea was in his best interest.

Based on the record, the district court found Gotoy entered his guilty plea knowingly, voluntarily, and intelligently. The district court found, based on the totality of the circumstances, Gotoy did not demonstrate a fair and just reason to permit withdrawal of his guilty plea. After review of the record, we conclude Gotoy has not demonstrated the district court abused its discretion by denying his motion to withdraw his guilty plea without conducting an evidentiary hearing. *See Hubbard v. State*, 110 Nev.

671, 675, 877 P.2d 519, 521 (1994) (reviewing the district court's denial of a motion to withdraw guilty plea for an abuse of discretion). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Mary Kay Holthus, District Judge  
Law Office of Julian Gregory, L.L.C.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk