


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GILBERTO POLALNCO, A/K/A
GILBERTO POLANCO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78976-COA

FILED

JUN 06 2020

EMILY A. BROWN
CLERK OF APPEALS COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Gilberto Polalnco appeals pursuant to NRAP 4(c) from a judgment of conviction entered pursuant to a guilty plea of conspiracy to violate the Uniform Controlled Substances Act and transport of a controlled substance. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Polalnco argues the district court erred by denying his presentence motion to withdraw his guilty plea. Polalnco contends his plea was not knowingly and voluntarily entered because a language barrier prevented him from fully understanding the consequences of his plea.

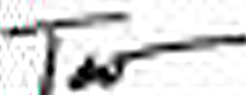
A defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and “a district court may grant a defendant’s motion to withdraw his guilty plea before sentencing for any reason where permitting withdrawal would be fair and just,” *Stevenson v. State*, 131 Nev. 598, 604, 354 P.3d 1277, 1281 (2015). 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.

At the evidentiary hearing, Polanco testified he did not speak English, but acknowledged that his attorney explained the plea agreement to him in Spanish, that a Spanish language interpreter read the written plea agreement to him, and that the interpreter aided him during the plea hearing. The district court found that Polanco had properly been advised of the consequences of his guilty plea in the written plea agreement. The district court also found that Polanco testified he testified that he did not understand the plea agreement.

At the conclusion of the evidentiary hearing, the district court denied Polanco's motion, based on the totality of the circumstances, to withdraw his guilty plea. In its order, the district court stated that Polanco failed to demonstrate a fair and just reason to permit withdrawal of his guilty plea. After review of the record, we conclude Polanco failed to demonstrate that the district court abused its discretion by denying his motion to withdraw his guilty plea. See *Hubbard v. State*, 110 Nev. 611, 618, 977 P.2d 818, 821 (2004) (reviewing the district court's denial of a motion to withdraw guilty plea for an abuse of discretion). Accordingly, we

CONFIRM the judgment of conviction **AFFIRMED**.


Judge


Clerk


Reporter

cc: Hon. Jacqueline M. Bluth, District Judge
Zaman & Trippiedi, PLLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk