

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSE ALBERTO CANDELAS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78249-COA

**FILED**

JUL 13 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jose Alberto Candelas appeals from a judgment of conviction entered pursuant to an *Alford*<sup>1</sup> plea of battery with the use of a deadly weapon and battery constituting domestic violence. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

First, Candelas argues the district court erred by denying his motion to withdraw his *Alford* plea. In his motion, Candelas asserted he was pressured into accepting a plea offer by his attorneys and other people who were in the courtroom. 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.

<sup>1</sup>*North Carolina v. Alford*, 400 U.S. 25 (1970).

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At the evidentiary hearing, Candelas's attorneys testified that they simply explained the plea offer and advised Candelas that he should accept the offer. In addition, in the written plea agreement Candelas acknowledged that he did not act under duress or coercion. After the evidentiary hearing, the district court found that Candelas did not demonstrate that his claims were meritorious and that Candelas's plea was valid. The district court also found, based on the totality of the circumstances, Candelas did not demonstrate a fair and just reason to permit withdrawal of his *Alford* plea. After review of the record, we conclude Candelas has not demonstrated the district court abused its discretion by denying his motion to withdraw his plea. *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).


Second, Candelas argues the district court erred by failing to allow him to be represented by counsel at the sentencing hearing. The district court may properly deny a request to withdraw from self-representation if the "request is made with an intent to delay or obstruct proceedings." *Meisler v. State*, 130 Nev. 279, 284, 321 P.3d 930, 934 (2014). Prior to the sentencing hearing, the district court approved Candelas's request to represent himself. However, at the beginning of the sentencing hearing, Candelas informed the district court that he had retained counsel to represent him and wished to trail or continue the hearing until his newly-retained counsel could attend. The district court's judicial assistant contacted the attorney and informed the district court that Candelas had not retained the attorney. The district court found Candelas had possibly made a false representation regarding his discussion with the attorney and that sentencing had already been delayed too many times. The district

court therefore denied Candelas's request. In light of the district court's findings, we conclude the district court properly denied Candelas's request to withdraw from self-representation. Therefore, Candelas is not entitled to relief based upon this claim.

Having concluded Candelas 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  
Law Offices of Carl E.G. Arnold  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk