

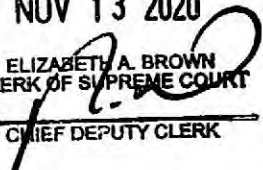
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBIN SCOTT MILES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80221-COA

FILED

NOV 13 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Robin Scott Miles appeals from a judgment of conviction entered pursuant to an *Alford*¹ plea of lewdness with a child under the age of 14. First Judicial District Court, Carson City; James Todd Russell, Judge.

Miles argues the district court erred by denying his motion to withdraw his *Alford* plea. In his motion, Miles asserted he was innocent, he felt panicked, and he believed he had no choice but to accept the plea offer. Miles also contended he did not have enough time to talk with his counsel concerning the plea offer and he did not understand the consequences he faced if he accepted the offer. Miles further claimed that he did not understand the plea offer or the plea canvass due to his medical issues.

The Nevada Supreme Court has long treated an *Alford* plea “as if the defendant had pleaded guilty.” *State v. Lewis*, 124 Nev. 132, 133 n.1, 178 P.3d 146, 147 n.1 (2008) (quotation marks omitted), *overruled on other grounds by State v. Harris*, 131 Nev. 551, 355 P.3d 791 (2015). A defendant

¹*North Carolina v. Alford*, 400 U.S. 25 (1970).

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, Miles’s counsel testified that Miles asserted he was innocent. However, counsel came to the conclusion that Miles would likely be convicted had he proceeded to trial and would be sentenced to serve life in prison with the possibility of parole in 35 years. Counsel stated he discussed the facts of the case, the State’s plea offer, and the potential penalties with Miles. Counsel testified he believed Miles understood the plea offer and the consequences of accepting the plea offer. Counsel also testified he was aware of Miles’s medical issues, but did not believe they affected Miles’s ability to understand the proceedings.

In addition, the written plea agreement, which Miles acknowledged having read and understood, informed Miles of the potential prison term and special sentence of lifetime supervision he faced by acceptance of the plea offer. Moreover, Miles informed the district court during the plea canvass that he understood the plea agreement. During the canvass Miles also specifically acknowledged that his medical issues did not affect his ability to understand the proceedings.

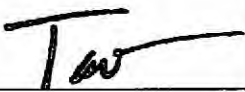
After the evidentiary hearing, the district court found that Miles did not demonstrate that his claims were meritorious. The district court noted Miles asserted he was innocent, but found that Miles had been explained the purpose of an *Alford* plea and had decided it was in his best

interest to accept the State's plea offer. The district court further found that the record and testimony presented at the evidentiary hearing demonstrated Miles was not pressured or coerced into entering an *Alford* plea. The district court also found that Miles failed to demonstrate his medical issues impacted his ability to understand the proceedings. The district court found, based on the totality of the circumstances, Miles did not demonstrate a fair and just reason to permit withdrawal of his *Alford* plea.

After review of the record, we conclude Miles 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). Therefore, we conclude Miles is not entitled to relief, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James Todd Russell, District Judge
Karla K. Butko
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk