

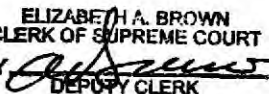
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LATROYMEN LOVE CRAIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80505-COA

FILED

DEC 21 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Latroymen Love Crain appeals from a judgment of conviction entered pursuant to a guilty plea of conspiracy to commit robbery, robbery with the use of a deadly weapon, and battery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Crain 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).

Crain claimed he should be allowed to withdraw his guilty plea because his original attorney was ineffective and his subsequent attorney advised him to accept the State’s plea offer without first explaining that the

appointment of new counsel and entry of the guilty plea would ameliorate his original attorney's ineffectiveness and limit his ability to successfully litigate a postconviction ineffective assistance claim against that attorney.

The district court found the original attorney's performance was not relevant to Crain's guilty plea and denied Crain's motion. The record supports the district court's finding and indicates the district court applied the correct standard for resolving Crain's motion. Accordingly, we conclude the district court did not abuse its discretion by denying Crain's motion to withdraw his guilty plea, and we

ORDER the judgment of conviction AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Law Office of Benjamin Nadig, Chtd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹To the extent Crain claims the district court erred by denying his motion without conducting an evidentiary hearing, we conclude his claim is without merit because he failed to demonstrate he was entitled to an evidentiary hearing. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).