

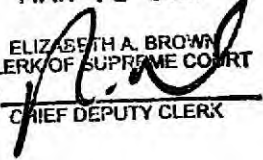
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FREDRICK MONTEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 81761-COA

FILED

MAR 12 2021

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

*ORDER OF AFFIRMANCE*

Fredrick Montez appeals from a judgment of conviction entered pursuant to a guilty plea of battery resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Montez argues that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. In his motion, Montez claimed he should be permitted to withdraw his plea because he has always maintained his innocence and the victim's medical records may impeach the victim's statement to police.

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'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 discretion." *State v.*

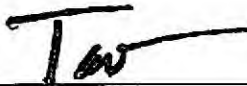
21-07275

*Second Judicial Dist. Court (Bernardelli)*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969).

A copy of the plea canvass transcript is necessary to evaluate whether the district court abused its discretion by denying Montez's claim that he demonstrated a fair and just reason for withdrawal of his guilty plea. However, Montez did not include the transcript in his appendix. As the appellant, it is Montez's obligation to provide this court with an adequate record for review. *See McConnell v. State*, 125 Nev. 243, 256 n.13, 212 P.3d 307, 316 n.13 (2009); *see also* NRAP 30(b)(3) (stating the appellant's appendix filed on appeal shall include "any other portions of the record essential to determination of issues raised in appellant's appeal"). Because Montez did not include an essential portion of the record, he fails to demonstrate he is entitled to relief. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

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

cc: Hon. Michelle Leavitt, District Judge  
Monique A. McNeill  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk