

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN J. NOTO A/K/A RYAN JOSEPH
NOTO,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37602

FILED

NOV 14 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. P. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted possession of a controlled substance. The district court sentenced appellant to serve 12 to 30 months in prison.

Appellant's sole contention is that his guilty plea is invalid because it was not knowingly and voluntarily entered. In particular, appellant claims that he did not have a sufficient understanding of the elements of the offense to which he pleaded guilty.

As appellant recognizes, this court stated in Bryant v. State¹ that we would "no longer permit a defendant to challenge the validity of a guilty plea on direct appeal from the judgment of conviction."² Rather, such claims must be raised in the district court in the first instance, either by commencing a post-conviction proceeding or filing a motion to withdraw the guilty plea.³ Appellant argues that the error in this case is clear from the record and, therefore, this court should consider the validity of the guilty plea on direct appeal as it did in Lyons v. State⁴ and Smith v.

¹102 Nev. 268, 721 P.2d 364 (1986).

²Id. at 272, 721 P.2d at 368.

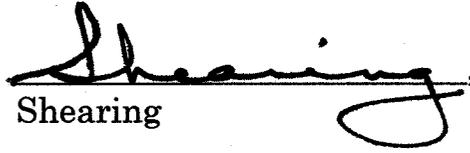
³Id.

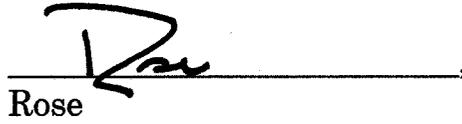
⁴105 Nev. 317, 775 P.2d 219 (1989) (considering validity of guilty plea on direct appeal where statute defining offense to which defendant pleaded guilty was unconstitutional).

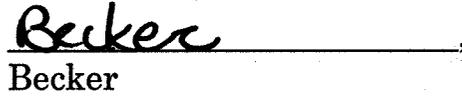
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State.⁵ We disagree. Lyons and Smith created very limited exceptions to the general rule set forth in Bryant. We conclude that the issue raised in this appeal is not similar to the issues raised in Lyons and Smith and that an exception to the general rule stated in Bryant is not warranted in this case. Appellant must pursue his claims in the district court in the first instance. Accordingly, we

ORDER this appeal DISMISSED.


Shearing, J.


Rose, J.


Becker, J.

cc: Hon. Joseph T. Bonaventure, District Judge
Attorney General
Clark County District Attorney
Osvaldo E. Fumo
Clark County Clerk

⁵110 Nev. 1009, 879 P.2d 60 (1994) (considering validity of guilty plea on direct appeal where record clearly demonstrated that guilty plea was coerced by counsel and district court).