

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WAHEED FEDA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81811-COA

FILED

AUG 09 2021

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

ORDER OF AFFIRMANCE

Waheed Feda appeals from a judgment of conviction entered pursuant to a guilty plea of escape. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Feda argues the district court erred by denying his motion to withdraw his guilty plea without first conducting an evidentiary hearing. In his motion, Fedra claimed he was in a coercive environment when he entered his guilty plea because counsel threatened to withdraw due to a disagreement concerning trial strategy and because counsel was not prepared for trial. Fedra also contended he was improperly induced to plead guilty when the trial-level court indicated it was likely to place him on probation if he were to plead guilty.

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 that discretion.” *State v. Second Judicial Dist. Court (Bernardelli)*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969). To warrant an evidentiary hearing, a petitioner must raise claims supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

On the day Fedá’s jury trial was set to begin, Fedá and counsel engaged in a discussion with the trial-level court concerning their disagreement about the trial strategy and also discussed a potential guilty plea. During the discussion, the trial-level court did not improperly encourage Fedá to enter a guilty plea or promise Fedá would receive probation if he did so. Rather, the trial-level court explained to Fedá that it made no difference to the court whether he entered a guilty plea or proceeded to trial, and stated it did not want Fedá to feel that it pushed him in any way. Fedá responded that he understood. The trial-level court subsequently permitted Fedá and his counsel time to privately discuss entry of a guilty plea. Fedá thereafter advised the trial-level court that he decided to enter a guilty plea.

In the written plea agreement, which Fedá acknowledged having read and understood, Fedá asserted that he entered his plea voluntarily and did not act under duress or coercion. Fedá further acknowledged in the written plea agreement that he understood the range of penalties he faced, he had not been promised he would receive a particular sentence, and he understood his sentence would be determined by the sentencing court within the limits of the prescribed statutes. Fedá

also acknowledged in the written plea agreement that he discussed with his counsel potential defenses, defense strategies, and circumstances that might be in his favor, and he concluded that entry of a guilty plea was in his best interests.

At the plea canvass, Fedra asserted that he discussed the case with his counsel and wished to enter a guilty plea. Fedra acknowledged at the plea canvass that no one forced him to plead guilty and he voluntarily entered his plea. In addition, Fedra acknowledged at the plea canvass that he understood his potential placement on probation was within the discretion of the sentencing court and that no one could promise that he would receive probation or any other special treatment.

At the hearing concerning Fedra's motion to withdraw guilty plea, the district court noted that it carefully canvassed Fedra regarding entry of his plea to ensure that he actually wished to plead guilty. The district court subsequently found, based on the totality of the circumstances, Fedra did not demonstrate a fair and just reason to permit withdrawal of his guilty plea. After review of the record, we conclude Fedra did not demonstrate the district court abused its discretion by denying his motion to withdraw his guilty plea without conducting an evidentiary hearing. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jacqueline M. Bluth, District Judge
Jonathan E. MacArthur, P.C.
Attorney General/Carson City
Clark County District Attorney
Attorney General/Ely
Eighth District Court Clerk