

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JARELL WASHINGTON, A/K/A
JARRELL WASHINGTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82896-COA

FILED

MAR 15 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*ORDER OF AFFIRMANCE AND REMANDING TO CORRECT
JUDGMENT OF CONVICTION*

Jarell Washington appeals from a judgment of conviction entered pursuant to a guilty plea of second-degree murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Washington argues the district court erred by denying his presentence motion to withdraw his guilty plea. In his motion, Washington claimed he felt pressured to enter a guilty plea because the district court denied his request to continue trial even though he and his counsel were not ready for trial. Washington also sought to withdraw his guilty plea because he did not have enough time to review and consider the plea agreement and because counsel did not provide him with all of the discovery materials.

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).

The district court conducted an evidentiary hearing concerning Washington’s motion. At the evidentiary hearing, counsel testified to the following information. He received a plea offer from the State, he informed Washington of the offer, and Washington had approximately one month to consider the offer prior to the scheduled start of trial. Washington did not accept the plea offer when it was first offered, so counsel prepared for trial and reviewed the trial issues at length with Washington. Counsel had a discussion with Washington concerning all of the discovery materials but did not provide Washington with copies of materials regarding an informant out of concern that fellow inmates would view those materials and use that information against Washington. On the day trial was scheduled to begin, Washington wished for a continuance, but the district court denied the motion to continue trial. Despite the denial of the motion to continue, counsel informed Washington that he was prepared for trial, but Washington ultimately decided to accept the plea offer from the State. Counsel therefore reviewed the written plea agreement with Washington. Washington indicated to counsel that he understood the agreement. After reviewing the written plea agreement, Washington entered his guilty plea in the district court.

In addition, in the written plea agreement and at the plea canvass, Washington acknowledged that he did not enter his guilty plea under duress but rather did so voluntarily. Washington also acknowledged in the written plea agreement that he discussed with counsel possible

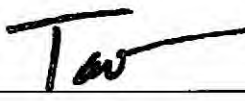
defenses, defense strategies, and circumstances that might be in his favor but believed that acceptance of the plea agreement was in his best interests.


After the evidentiary hearing, the district court found Washington did not demonstrate he was entitled to relief. In light of the totality of the circumstances in this matter, Washington failed to demonstrate a fair and just reason to permit withdrawal of his guilty plea. Therefore, we conclude Washington did not demonstrate the district court abused its discretion by denying his motion to withdraw his guilty plea.

Finally, our review of the judgment of conviction reveals a clerical error. The judgment of conviction states that Washington's conviction of second-degree murder with the use of a deadly weapon was a category B felony. However, that is a clerical error because second-degree murder with the use of a deadly weapon is a category A felony. See NRS 200.030(5). Because the district court has the authority to correct a clerical error at any time, see NRS 176.565, we direct the district court to enter a corrected judgment of conviction clarifying that Washington was convicted of a category A felony. Accordingly, we

ORDER the judgment of conviction AFFIRMED and REMAND to the district court for the limited purpose of correcting the judgment of conviction.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
Ornoz & Ericsson, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk