

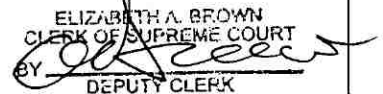
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRYAN WARREN DRYDEN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83233-COA

FILED

AUG 08 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Bryan Warren Dryden appeals from a judgment of conviction entered pursuant to a guilty plea of attempted sexual assault. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Dryden argues the district court erred by denying his presentence motion to withdraw his guilty plea. Dryden also contends that the district court did not make sufficient factual findings when it denied his motion. 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).

In his motion, Dryden requested withdrawal of his plea because his counsel caused him to be confused about the possible sentences and the minimum parole eligibility date he faced, his counsel provided him with gifts that improperly induced him to plead guilty, and he had serious disagreements and disputes with counsel. Dryden also contended he was denied prescription medication prior to the plea canvass and he was therefore unable to properly comprehend that proceeding.

At the evidentiary hearing regarding Dryden's motion to withdraw guilty plea, counsel testified that he explained the potential penalties Dryden faced from entry of his guilty plea and did not mislead Dryden concerning his possible minimum parole eligibility date. Counsel also testified that he and Dryden had a good working relationship and he agreed to purchase a television for Dryden because he liked Dryden. Counsel stated that he agreed to purchase the television regardless of whether Dryden decided to plead guilty or proceed to trial. In addition, counsel testified that he reviewed the written plea agreement with Dryden and that Dryden appeared to understand that agreement. Counsel stated that Dryden did not inform him of a denial of prescription medication that would have caused Dryden to have difficulties understanding the guilty plea proceedings.

Moreover, in the written plea agreement and at the plea canvass, Dryden acknowledged that he understood the possible penalties he faced by entry of his guilty plea. At the plea canvass, Dryden acknowledged that he understood the proceedings and voluntarily wished to enter his guilty plea. Dryden also stated that he did not act based upon any promises other than what was contained within the plea agreement. In addition,

Dryden stated that he had reviewed the written plea agreement with his attorney and understood everything contained within that agreement.

After the evidentiary hearing, the district court stated it observed all of the testimony presented at that hearing, and it concluded that Dryden did not demonstrate he was entitled to withdraw his guilty plea. The district court also stated that it did not believe Dryden's assertion that counsel had induced him to plead guilty through the purchase of gifts. The district court ultimately concluded, based on the totality of the circumstances, that Dryden did not demonstrate a fair and just reason to permit withdrawal of his guilty plea.

After review of the record, we conclude Dryden did not demonstrate the district court abused its discretion by denying his motion to withdraw his guilty plea. Moreover, we conclude the district court's decision contains findings with sufficient specificity to permit this court to appropriately review this issue on appeal. Therefore, we conclude Dryden 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. Mary Kay Holthus, District Judge  
Paul Padda Law, PLLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk