

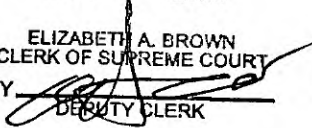
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER MARQUISE MASON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 88505-COA

FILED

MAR 11 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Christopher Marquise Mason appeals from a judgment of conviction, entered pursuant to a guilty plea, of second-degree murder. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Mason argues the district court erred in denying his presentence motion to withdraw a guilty plea. 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. We give deference to the district court’s factual findings if they are supported by the record, *id.* at 604, 354 P.3d at 1281, and review the district court’s decision on a motion to withdraw a guilty plea for an abuse of discretion, *Molina v. State*, 120 Nev. 185, 191, 87 P.3d 533, 538 (2004).

Mason argues that, but for counsel telling him he could withdraw his guilty plea at will, he would not have pleaded guilty. Ineffective assistance of counsel could constitute a fair and just reason for withdrawing a guilty plea. *See Sunseri v. State*, 137 Nev. 562, 566, 495 P.3d 127, 132 (2021). A defendant must meet two criteria to establish ineffective assistance of counsel sufficient to invalidate their guilty plea: (1) “a defendant must show counsel’s performance was deficient in that it fell below an objective standard of reasonableness”; and (2) “prejudice resulted in that, but for counsel’s errors, there is a reasonable probability the defendant would not have pleaded guilty and would have insisted on going to trial.” *Id.*

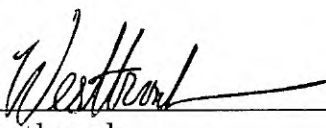
The district court conducted an evidentiary hearing during which defense counsel and Mason testified. The district court found defense counsel did not misrepresent Mason’s ability to withdraw his guilty plea. This finding is supported by the record. Defense counsel testified that he had discussed Mason’s ability to withdraw his guilty plea and informed him the ability to withdraw his plea depended on his reasons for doing so. According to defense counsel, Mason appeared to understand this advice. Although Mason’s testimony contradicted defense counsel’s testimony, the district court found defense counsel credible, and the district court was in the best position to evaluate the credibility of the witnesses before it. *See Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). Because Mason failed to demonstrate that counsel misadvised him, the district court

did not abuse its discretion in determining Mason failed to demonstrate a fair and just reason for withdrawing his guilty plea.<sup>1</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Jacqueline M. Bluth, District Judge  
Gaffney Law  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>To the extent Mason argues the district court failed to consider that he misunderstood counsel's advice, this argument was not raised below, and we decline to consider it for the first time on appeal. *See Wade v. State*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).