

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARK WAYNE MEADE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 88146-COA

FILED

MAY 06 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Mark Wayne Meade appeals from a judgment of conviction, entered pursuant to a plea of guilty but mentally ill, of first-degree murder. Eighth Judicial District Court, Clark County; Bitu Yeager, Judge.

Meade argues the district court erred by denying his presentence motion to withdraw his plea of guilty but mentally ill.<sup>1</sup> A defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and a district court may grant the motion “for any reason where permitting withdrawal would be fair and just,” *Stevenson v. State*, 131 Nev. 598, 604, 354 P.3d 1277, 1281 (2015). “[T]he 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 Jud. Dist. Ct. (Bernardelli)*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969).

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<sup>1</sup>We note that a defendant who pleads guilty but mentally ill is subject to the same criminal penalties and procedures as a defendant who pleads guilty. See NRS 174.035(5).

25-20221

In his motion, Meade claimed he had a fair and just reason to withdraw his plea because it was not entered knowingly and voluntarily. A guilty plea is presumptively valid, and a petitioner carries the burden of establishing the plea was not entered knowingly and intelligently. *Hubbard v. State*, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). In determining the validity of a guilty plea, this court looks to the totality of the circumstances. *State v. Freese*, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000). “A court must be able to conclude from the oral canvass, any written plea memorandum and the circumstances surrounding the execution of the memorandum (*i.e.*, did the defendant read it, have any questions about it, etc.) that the defendant’s plea was freely, voluntarily and knowingly made.” *Id.* at 1106, 13 P.3d at 448.

First, Meade claimed his plea was not knowingly and voluntarily entered because he suffers from memory and mental health issues and was on Seroquel, Lithium, and Prozac at the time of his plea, which caused issues with his memory and “brain fog.” Meade represented to the district court during the plea canvass that, despite being on Seroquel, Lithium, and Prozac, he understood what was happening in the proceedings. The district court conducted an evidentiary hearing regarding Meade’s motion where Meade and his counsel testified. Meade testified the medications made him feel “numb . . . [l]ike everything was okay.” When asked whether the medications affected his ability to understand what was going on, Meade explained they “just made me feel like I was depressed, I guess.” He offered no testimony about how his memory or mental health issues impacted the knowing and voluntary nature of his plea.

Counsel testified she was aware of Meade’s history of depression—including being suicidal—and medication use but was

unaware of any issues he was having regarding his ability to understand the entry of plea proceedings. She explained she had no concerns during the plea canvass about his competency or the voluntariness of his plea. No other evidence was offered regarding how Meade's memory or mental health issues or medications impacted the plea. In light of these circumstances, we conclude Meade failed to demonstrate his plea was not knowingly and voluntarily entered based on his memory and mental health issues and his use of certain medications.

Second, Meade claimed his plea was not knowingly and voluntarily entered because counsel failed to provide him with all of the discovery, did not discuss defenses with him, and did not have much contact with him. As a result, Meade contended he had "no rapport" with counsel, did not feel comfortable with her, and could not trust her. Meade acknowledged in the written plea agreement that (1) he discussed with counsel any possible defenses and defense strategies, (2) counsel answered all of his questions regarding the plea agreement and its consequences to his satisfaction, and (3) he was satisfied by the services counsel provided. During his plea canvass, Meade similarly acknowledged that he and counsel had discussed any possible defenses and that counsel was available to answer any questions he had.

During the evidentiary hearing, counsel testified she had significant contact with Meade before he went to Lake's Crossing and while he was there. She explained that she had 13 contacts with Meade after he returned from Lake's Crossing and that those conversations were about plea negotiations, the evidence, and who would testify. She also explained she provided all the discovery Meade wanted except for the autopsy photographs. When asked during the evidentiary hearing if counsel

discussed defenses with him, Meade replied "I don't think so." Meade later testified that he had never seen the discovery but then clarified that he had just seen what counsel brought him while he was in jail, including "a bunch of pictures of the crime scene" and "some letter." Meade offered no testimony about how counsel's alleged failure to provide discovery, discuss defenses, or have sufficient contact with him impacted the knowing and voluntary nature of his plea. In light of these circumstances, we conclude Meade failed to demonstrate his plea was not knowingly and voluntarily entered based on counsel's purported failure to provide him with discovery or discuss defenses with him.

Third, Meade claimed his plea was not knowingly and voluntarily entered because he was unaware of what the terms meant when he was entering his plea, did not fully understand the terms and consequences of his plea, and did not know the entirety of the case against him. During the plea canvass, Meade represented he understood the charge he was facing and understood that both parties would stipulate to a 20-to-50-year prison sentence. He also represented he read and understood everything in the written plea agreement before he signed it.

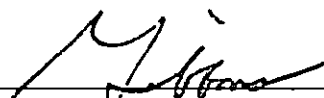
During the evidentiary hearing, Meade testified he and counsel discussed the possible penalties he faced for his first-degree murder conviction, including the death penalty. While Meade testified he did not feel he understood what was going on during his plea canvass, he explained he only felt that way and wanted to withdraw his plea after talking to his "family and some people" who "said I shouldn't be doing that." Meade offered no testimony about what other specific terms or consequences he did not understand and what aspects of the case against him he did not know. He likewise offered no explanation about how his lack of understanding


about these issues impacted the knowing and voluntary nature of his plea. In light of these circumstances, we conclude Meade failed to demonstrate his plea was not knowingly and voluntarily entered based on his allegation that he was not aware of, or did not fully understand, the terms and consequences of his plea.

After considering the totality of the circumstances, we conclude Meade failed to demonstrate a fair and just reason to withdraw his plea. Therefore, the district court did not abuse its discretion by denying his presentence motion to withdraw his plea.<sup>2</sup> For these reasons, we

ORDER the judgment of conviction AFFIRMED.

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

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

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

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<sup>2</sup>On appeal, Meade argues his plea was not knowingly and voluntarily entered because “he did not comprehend that his own mind was degrading and impaired.” To the extent this amounts to new argument, we decline to consider it for the first time on appeal. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).

cc: Hon. Bita Yeager, District Judge  
The Gersten Law Firm PLLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk