


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAMON RUIZ-SEGURA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89563-COA

FILED

JUL 10 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

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

Ramon Ruiz-Segura appeals from a judgment of conviction, entered pursuant to an *Alford*¹ plea, of trafficking in a schedule I controlled substance, 14 to 28 grams. First Judicial District Court, Carson City; James Todd Russell, Judge.

Ruiz-Segura argues the district court erred by denying his presentence motion to withdraw his 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

¹*North Carolina v. Alford*, 400 U.S. 25 (1970). We note that an *Alford* plea is equivalent to a guilty plea insofar as how the court treats a defendant. *State v. Lewis*, 124 Nev. 132, 133 n.1, 178 P.3d 146, 147 n.1 (2008), *overruled on other grounds by State v. Harris*, 131 Nev. 551, 556, 355 P.3d 791, 793-94 (2015).

give deference to the district court's factual findings if they are supported by the record. *Id.* at 604, 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).

Ruiz-Segura claimed he had a fair and just reason to withdraw his plea based on the ineffective assistance of counsel. 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). To demonstrate ineffective assistance of counsel sufficient to demonstrate a fair and just reason to withdraw a guilty plea before sentencing, "a defendant must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and 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.*; *see also Hill v. Lockhart*, 474 U.S. 52, 58-59 (1985); *Kirksey v. State*, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown, *Strickland v. Washington*, 466 U.S. 668, 687 (1984), and the petitioner must demonstrate the underlying facts by a preponderance of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). We give deference to the district court's factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). This court will not "evaluate the credibility of witnesses because that is the responsibility of the trier of fact." *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008).

First, Ruiz-Segura claimed counsel was ineffective for failing to adequately review with him the evidence against him and discovery. Specifically, Ruiz-Segura alleged that counsel: (1) failed to obtain video from an IHOP parking lot; (2) failed to obtain audio recordings from controlled drug buys; (3) only briefly reviewed with him the surveillance video taken from a bakery parking lot; (4) failed to discuss the preliminary hearing testimony of the two codefendants; and (5) was unfamiliar with the details in the police report. Ruiz-Segura alleged he felt pressured into entering his plea because of these errors. The district court conducted an evidentiary hearing on Ruiz-Segura's motion where Ruiz-Segura and counsel testified. The district court implicitly found Ruiz-Segura's testimony to be incredible and counsel's testimony to be credible.

With regard to the IHOP video and the audio recordings, Ruiz-Segura did not admit the video or audio recordings into evidence at the evidentiary hearing. Instead, Ruiz-Segura testified he did not expect to be present in the video, and counsel testified that she had received and reviewed the video and that Ruiz-Segura was not meaningfully depicted in it. Counsel also testified that, while she did not receive the audio recordings from the State, it was her understanding Ruiz-Segura was not involved in anything captured in those recordings. Counsel's understanding was confirmed by Ruiz-Segura, who testified he never met with a confidential informant and would not expect to hear himself on the recordings. Because both Ruiz-Segura and counsel testified during the evidentiary hearing that they did not expect Ruiz-Segura to be present in either recording, we cannot conclude counsel was objectively unreasonable for failing to obtain or go over this evidence with Ruiz-Segura where Ruiz-Segura and counsel knew he would not be present in the recordings.

Ruiz-Segura is also unable to demonstrate prejudice. His testimony at the evidentiary hearing confirms that he would have known he was not going to be depicted in either recording. And he testified he was aware of other video evidence that showed him moving a bag allegedly containing approximately five pounds of methamphetamine. Because Ruiz-Segura would have known that he was not present in the video and audio recordings and because Ruiz-Segura was aware of other inculpatory evidence, Ruiz-Segura failed to demonstrate a reasonable probability he would not have entered his *Alford* plea and would have insisted on proceeding to trial but for counsel's alleged errors. Therefore, we conclude the district court did not abuse its discretion by denying Ruiz-Segura's motion based on this claim.

With regard to the bakery video, counsel testified she and Ruiz-Segura "watched it many times," "froze it," and "evaluated it." Ruiz-Segura testified that he viewed the video with counsel twice and that it depicted him moving a bag allegedly containing approximately five pounds of methamphetamine. In light of these circumstances, Ruiz-Segura failed to demonstrate counsel's performance was deficient or a reasonable probability he would not have entered his *Alford* plea and would have insisted on proceeding to trial had counsel reviewed the video with him again. Therefore, we conclude the district court did not abuse its discretion by denying Ruiz-Segura's motion based on this claim.

With regard to the codefendants' preliminary hearing testimony, Ruiz-Segura did not admit the testimony into evidence at the evidentiary hearing. Without knowing the substance of the codefendants' testimony, we cannot conclude counsel was objectively unreasonable for failing to discuss that testimony with Ruiz-Segura. Further, Ruiz-Segura

offered no testimony at the evidentiary hearing identifying what aspects of the preliminary hearing testimony would have changed his mind about entering his plea. Accordingly, Ruiz-Segura failed to demonstrate a reasonable probability he would not have entered his *Alford* plea and would have insisted on proceeding to trial had counsel discussed with him the preliminary hearing testimony of the two codefendants. Therefore, we conclude the district court did not abuse its discretion by denying Ruiz-Segura's motion based on this claim.

Finally, with regard to the police report, Ruiz-Segura did not admit the report or any other evidence identifying the specific portions of the report counsel was unfamiliar with into evidence at the evidentiary hearing. Without having the report and allegations regarding what parts of the report counsel was unfamiliar with, we cannot conclude counsel's conduct was objectively unreasonable. Ruiz-Segura also failed to demonstrate prejudice. While Ruiz-Segura testified that counsel "wouldn't know what I was talking about" when he "would bring things up about the report," and that counsel seemed surprised that some of the information he raised was in the reports, Ruiz-Segura did not explain how counsel's unfamiliarity with unidentified portions of the report pressured him into entering a plea. Further, Ruiz-Segura was aware of video evidence depicting him moving a bag allegedly containing approximately five pounds of methamphetamine. In light of these circumstances, Ruiz-Segura failed to demonstrate a reasonable probability he would not have entered his *Alford* plea and would have insisted on proceeding to trial but for counsel's alleged unfamiliarity with the police report. Therefore, we conclude the district court did not abuse its discretion by denying Ruiz-Segura's motion based on this claim.

Second, Ruiz-Segura claimed counsel was ineffective for failing to devise a defense strategy. Ruiz-Segura testified at the evidentiary hearing that counsel told him she did not have a defense strategy and asked Ruiz-Segura what he thought was a viable strategy. Ruiz-Segura explained his strategy was that he “had no involvement” in the crime. However, Ruiz-Segura further testified he had seen the bakery surveillance video of himself carrying a bag that the State alleged had five pounds of methamphetamine in it.

Counsel testified she and Ruiz-Segura discussed defense strategy and different explanations for what was depicted in the bakery surveillance video. She explained Ruiz-Segura’s defense strategy, as he explained it to her, was that he did not know what was in the bag. Counsel further testified she and Ruiz-Segura watched the bakery video many times and evaluated it. She described the video as “damning” and felt it was not beneficial for the defense. She explained that she felt it would be very difficult to explain to a jury Ruiz-Segura’s “behavior around moving the bag if he didn’t know what was in it.” Counsel testified it was in this context that she explained to Ruiz-Segura she did not think he had a successful defense based on his purported lack of involvement. Because she did not think this was a viable strategy, she asked if Ruiz-Segura had any other strategies, including whether anyone pressured him, whether there was cartel involvement, or whether there was any other possible avenue to pursue that would give a better chance than lack of involvement. Ruiz-Segura offered no other argument or evidence regarding what defense strategies counsel should have pursued. In light of these circumstances, Ruiz-Segura failed to demonstrate counsel’s performance was deficient or a reasonable probability he would not have entered his *Alford* plea and would

have insisted on proceeding to trial but for counsel's alleged errors. Therefore, we conclude the district court did not abuse its discretion by denying Ruiz-Segura's motion based on this claim.


Third, Ruiz-Segura claimed counsel was ineffective for failing to have adequate contact with him. Ruiz-Segura alleged the lack of contact pressured him into entering his plea. The district court made the following findings of fact. Counsel met with Ruiz-Segura approximately six times—three in jail and three prior to court hearings. During those meetings, counsel gathered information about Ruiz-Segura, reviewed discovery with him, played surveillance video for him, discussed defense strategy with him, spent a lot of time discussing various plea offers from the State, discussed the terms of the plea agreement, answered all of Ruiz-Segura's questions, and communicated it was in his best interests to accept the negotiation. These findings are supported by the record. Ruiz-Segura failed to demonstrate how further contact with counsel would have helped with his defense or impacted his decision to proceed to trial instead of entering his plea. In light of these circumstances, Ruiz-Segura failed to demonstrate counsel's performance was deficient or a reasonable probability he would not have entered his *Alford* plea and would have insisted on proceeding to trial but for counsel's alleged errors. Therefore, we conclude the district court did not abuse its discretion by denying Ruiz-Segura's motion based on this claim.

Based on the totality of the circumstances, we conclude Ruiz-Segura failed to demonstrate a fair and just reason to withdraw his plea. Therefore, we conclude Ruiz-Segura has not demonstrated the district court abused its discretion by denying his motion to withdraw his plea.

Finally, we note the judgment of conviction contains a clerical error in that it reflects Ruiz-Segura was convicted of trafficking in a schedule I controlled substance, 28 grams or more. Ruiz-Segura entered an *Alford* plea to trafficking in a schedule I controlled substance, 14 to 28 grams, and the sentence imposed was consistent with that plea. See 2015 Nev. Stat., ch. 506, § 6, 3088. Because the district court has the authority to correct a clerical error at any time, see NRS 176.565, we direct the district court, upon remand, to enter a corrected judgment of conviction accurately reflecting that Ruiz-Segura was convicted of trafficking in a schedule I controlled substance, 14 to 28 grams.

For the foregoing reasons, we

ORDER the judgment of conviction AFFIRMED AND REMAND this matter to the district court to correct the judgment of conviction.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: First Judicial District Court, Department One
Marc Picker Law
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk