

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEVAUGHN KAYRON BENNETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90350-COA

FILED

SEP 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY W. H. Howes
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jevaughn Kayron Bennett appeals from a judgment of conviction, entered pursuant to a guilty plea, of conspiracy to possess more than one ounce but less than 50 pounds of marijuana, a gross misdemeanor. Second Judicial District Court, Washoe County; Kathleen M. Drakulich, Judge.

Bennett argues that the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. He contends that he did not know dashcam and bodycam video of the traffic stop existed until after he pleaded guilty. He asserts that had counsel told him about the videos, he would have insisted on trying to suppress the evidence seized as opposed to pleading guilty.


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). The ineffective assistance of counsel may constitute a fair and just reason to withdraw a guilty plea. *See Molina v. State*, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004) (“A defendant who

pleads guilty upon the advice of counsel may attack the validity of the guilty plea by showing that he received ineffective assistance of counsel under the Sixth Amendment to the United States Constitution.” (internal quotation marks omitted)). 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.” *Sunseri v. State*, 137 Nev. 562, 566, 495 P.3d 127, 132 (2021). We give deference to the district court’s factual findings if they are supported by the record, *Stevenson*, 131 Nev. 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*, 120 Nev. at 191, 87 P.3d at 538.

Both Bennett and his pre-plea counsel testified at the hearing on the motion to withdraw. Bennett testified that he did not learn about the video evidence until after he pleaded guilty. In contrast, Bennett’s counsel testified that he viewed the dashcam and bodycam video, described to Bennett what he viewed on the videos, and advised Bennett about the potential merit of a motion to suppress before Bennett decided to plead guilty. Bennett’s counsel testified that Bennett expressed a belief that the officer did not have reason to stop him but nevertheless wanted to accept the plea offer to put the case behind him. Bennett’s counsel also referred to his notes memorializing his communications with Bennett. Although Bennett’s testimony contradicted the testimony of his pre-plea counsel, the district court found that counsel was credible and that counsel discussed the videos and the potential merit of a suppression motion with Bennett

before Bennett decided to plead guilty. This court will not reevaluate the credibility of witnesses. *See Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008) ("This court will not reweigh the evidence or evaluate the credibility of witnesses because that is the responsibility of the trier of fact."). Because Bennett failed to demonstrate that counsel did not discuss this evidence with him before he pleaded guilty, and the district court's findings concerning that issue are supported by the record, we conclude the district court did not abuse its discretion in determining Bennett failed to demonstrate a fair and just reason for withdrawing his guilty plea. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Kathleen M. Drakulich, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk