

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN MICHAEL HORTA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90205

FILED

NOV 20 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of lewdness with a child under the age of 16 and first-degree kidnapping. Eighth Judicial District Court, Clark County; Tara D. Clark Newberry, Judge.

Appellant John Horta contends that the district court abused its discretion in denying Horta's motion to withdraw the guilty plea. "[G]uilty pleas are presumptively valid," *Molina v. State*, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004), "and we will not reverse the lower court's determination absent a clear showing of an abuse of discretion." *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) *superseded by statute on other grounds as stated in Hart v. State*, 116 Nev. 558, 1 P.3d 969 (2000). NRS 176.165 permits a defendant to file a motion to withdraw a guilty plea before sentencing. The district court may grant such a motion in its discretion for any substantial reason that is fair and just. *Stevenson v. State*, 131 Nev. 598, 603, 354 P.3d 1277, 1281 (2015). The district court must look to the totality of the circumstances in evaluating a motion to withdraw a guilty plea. *Id.*

First, Horta argues his physical pain from multiple hernias and the side effects of the Tylenol he had taken to manage that pain render the guilty plea invalid. The record does not indicate that Horta's pain or Tylenol usage had any impact on proceedings beyond his post hoc claims that they did. The record shows that Horta participated in a settlement conference that resulted in the guilty plea agreement, Horta was thoroughly canvassed about his decision to plead guilty and denied being under the influence of drugs during the canvass, and the court gave him additional time to consider his plea. We conclude that these circumstances do not demonstrate that Horta's "appreciation of the events of trial was diminished" by his pain or Tylenol usage. *Iverson v. State*, 107 Nev. 94, 98-99, 807 P.2d 1372, 1374-75 (1991) (citing *Lizotte v. State*, 102 Nev. 238, 720 P.2d 1212 (1986)) (concluding that defendant's use of prescribed anti-psychotic medication during a plea canvass did not render a guilty plea involuntary).

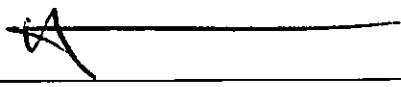
Second, Horta argues that he felt pressured by the prosecutor to plead guilty. *See Stevenson*, 131 Nev. at 604, 354 P.3d at 1281 ("[U]ndue coercion occurs when 'a defendant is induced by promises or threats which deprive the plea of the nature of a voluntary act'" (quoting *Doe v. Woodford*, 508 F.3d 563, 570 (9th Cir. 2007))). But the record here shows nothing improper. Rather, the alleged "pressure" exerted by the prosecutor amounts to simple negotiating strategy. *See id.* (recognizing that "time constraints and pressure from interested parties exist in every criminal case"). The routine pressures of plea negotiations are insufficient to support the withdrawal of a guilty plea.

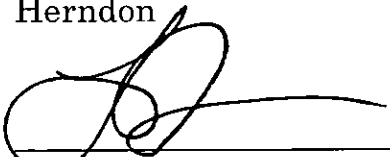
The four-month delay between the entry of Horta's plea and his motion to withdraw further weighs against his claims of confusion and pressure. *See Stevenson*, 131 Nev. at 605, 354 P.3d at 1281-82. The record

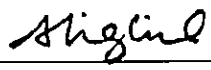
also indicates that Horta was granted a hearing on his motion and was allowed to speak at that hearing on the circumstances he now alleges the district court failed to properly consider.

Taken as a whole, the record does not support Horta's assertion that withdrawal of the guilty plea was warranted. Therefore, the district court did not abuse its discretion in denying the motion to withdraw the guilty plea. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Tara D. Clark Newberry, District Judge
Law Office of Christopher R. Oram
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk