IN THE SUPREME COURT OF THE STATE OF NEVADA

EDUARDO DELEON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39221

FILED

DEC 19 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction motion to withdraw a guilty plea.

On October 5, 2001, the district court convicted appellant, pursuant to a guilty plea, of robbery with the use of a deadly weapon. The district court sentenced appellant to serve a term of twenty-four to sixty months in the Nevada Department of Corrections, plus and equal and consecutive term for the use of a deadly weapon. No direct appeal was taken.

On January 17, 2002, appellant filed a proper person motion to withdraw a guilty plea in the district court. The State did not file an opposition to the motion. On February 6, 2002, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that his plea was not entered knowingly and voluntarily. Appellant argued that his attorney and

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interpreter told him that if he pleaded guilty that he would only be sentenced to one year for the robbery and one year for the use of a deadly weapon. In addition, appellant argued that the district court did not adequately canvass him to ensure that he understood the nature of the charges against him and the consequences of the plea.

A guilty plea is presumptively valid, and the appellant bears the burden of establishing it was not.[1] Absent an abuse of discretion, this court will not reverse a district court's decision on the validity of a guilty plea.[2] Appellant's mere subjective belief as to a potential sentence is insufficient to invalidate his guilty plea as involuntary and unknowing.[3] The record on appeal repels appellant's claim that he was not informed regarding potential sentences, the nature of the charges against him, and the consequences of the plea. Appellant signed a written plea agreement which stated that he admitted the facts in the information charging him with robbery with the use of a deadly weapon, and that in exchange for his plea the State agreed not to oppose appellant receiving a sentence of four to ten years. The plea agreement stated that appellant had not been promised or guaranteed a particular sentence, and that he understood

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[1]Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

[2]Id.

[3]See Rouse v. State, 91 Nev. 677, 679, 541 P.2d 643, 644 (1975).

that the district court was not obligated to accept any recommendation regarding sentencing. Despite appellant's assertion to the contrary, the district court did in fact conduct an adequate plea canvass. During the plea canvass appellant stated that the plea agreement had been translated into Spanish, and he had read it and understood it, specifically the possible sentences he could receive and the rights he was waiving. The district court read the charges, and appellant stated that he had in fact been the perpetrator of the actions which were the factual basis for the charges. Appellant stated that his plea was entered of his own will, freely and voluntarily.[4] Therefore, based on our review of the entire record and the totality of the circumstances, we conclude that the district court did not abuse its discretion in finding that appellant's plea was knowingly and voluntarily entered.[5]

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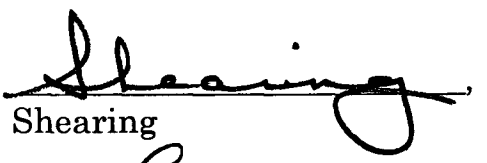
[4]See Lundy v. Warden, 89 Nev. 419, 422, 514 P.2d 212, 213 (1973) ("When an accused expressly represents in open court that his plea is voluntary, he may not ordinarily repudiate his statements to the sentencing judge.").

[5]See Gomes v. State, 112 Nev. 1473, 1481, 930 P.2d 701, 706 (1996); Bryant, 102 Nev. at 272, 721 P.2d at 368.

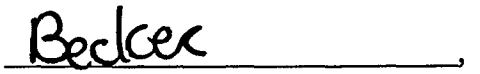
Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.[6] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[7]



_____, J.
Shearing

_____, J.
Leavitt



_____, J.
Becker

cc: Hon. Valorie Vega, District Judge
Attorney General/Carson City
Clark County District Attorney
Eduardo Deleon
Clark County Clerk

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[6]See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

[7]We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.