

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIK LAWRENCE RANDALL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 39936

FILED  
DEC 6 2002

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ORDER OF AFFIRMANCE

WILLIAM M. BLOOM  
CLERK OF SUPREME COURT  
*Richard*  
DEPUTY CLERK

This is an appeal from a district court order denying appellant Erik Lawrence Randall's post-sentencing motion to withdraw a guilty plea.

Randall was convicted, pursuant to a guilty plea, of one count of causing the death of another by driving while intoxicated, and one count of leaving the scene of an accident involving the death of a human being. The district court sentenced Randall to serve consecutive terms of 60 to 180 months for Count I and 48 to 120 months for Count II in the Nevada State Prison. This court affirmed Randall's judgment of conviction.<sup>1</sup>

Randall contends that his guilty plea must be set aside because of manifest injustice.<sup>2</sup> In particular, he claims that his guilty plea to Count II was not knowingly, voluntarily and intelligently entered

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<sup>1</sup>Randall v. State, Docket No. 38730 (Order of Affirmance, May 30, 2002).

<sup>2</sup>See NRS 176.165 ("To correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his plea.").

because the record does not show that he specifically understood or otherwise admitted in open court the knowledge element of Count II.<sup>3</sup> He claims that he did not understand that he had to be aware the victim was injured or killed in order to be guilty of Count II. We conclude that Randall's claim lacks merit.

On appeal from a district court's determination of the validity of a plea, this court presumes that the lower court correctly assessed the validity of the plea and will not reverse absent a clear showing of abuse of discretion.<sup>4</sup> The district court has wide latitude in fulfilling the requirement that "[a] defendant must enter a guilty plea with real notice of the true nature of the offense charged."<sup>5</sup> "This court does not consider only the technical sufficiency of a plea canvass to determine if a plea is valid; it reviews the entire record and looks to the totality of the facts and circumstances of a case."<sup>6</sup>

In this case, the district court found that Randall's guilty plea was knowing, voluntary and intelligent. We conclude that the district court did not abuse its discretion in so finding because the record reveals that the plea was validly entered. In particular, Randall made factual admissions that he committed the crimes. Also, the grand jury and

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<sup>3</sup>Randall does not challenge his plea to Count I.

<sup>4</sup>Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

<sup>5</sup>Hurd v. State, 114 Nev. 182, 187, 953 P.2d 270, 273 (1998) (citing Bryant, 102 Nev. at 270-271, 721 P.2d at 366-67).

<sup>6</sup>Id.

sentencing transcripts show that Randall's truck was leaking fluid after the collision. The police presented evidence for the State that the fluid trail from the truck circled back twice to within several feet of the human body on the pavement before driving away from the scene of the collision. The transcripts also reveal that the police tracked Randall down via the fluid trail and found him at a friend's house several hours after the collision. We note that if Randall had wished to challenge the intent element by asserting a defense that he was driving while intoxicated and did not realize he hit a person on a bicycle, he could have proceeded to trial. However, he chose not to do so.

We also note that this court addressed a very similar claim in Hurd v. State.<sup>7</sup> In Hurd, we affirmed the validity of a guilty plea for sexual offenses. The record in that case included a plea memorandum stating that Hurd admitted he "willfully and unlawfully" committed the offenses.<sup>8</sup> Randall's guilty plea memorandum contains the same "willfully and unlawfully" language regarding intent. We conclude that based on the case record as a whole, Randall was aware of the intent requirement of NRS 484.219, leaving the scene of an accident involving the death of a human being.<sup>9</sup> Therefore, we agree with the district court that his plea was valid.

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<sup>7</sup>114 Nev. 182, 953 P.2d 270.


<sup>8</sup>Id. at 187-88 n.4, 953 P.2d at 273 n.4.

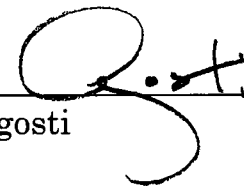
<sup>9</sup>We decline to reach Randall's other argument as to whether NRS 484.219 is a general-intent or specific-intent crime. We agree with the district court's conclusion of law that the State's evidence in the grand jury  
*continued on next page . . .*

Having considered Randall's claims and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

 \_\_\_\_\_, C. J.  
Young

 \_\_\_\_\_, J.  
Rose

 \_\_\_\_\_, J.  
Agosti

cc: Hon. Brent T. Adams, District Judge  
Richard F. Cornell  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

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*... continued*

and sentencing transcripts was sufficient to demonstrate either of these levels of intent.