

IN THE SUPREME COURT OF THE STATE OF NEVADA

LYNN RAY GRIMM A/K/A LYNN RAY  
GRIM,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 41077

FILED

JUN 04 2004

*J. Powell*  
CLERK OF SUPREME COURT  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of sexual assault of a child. The district court sentenced appellant to a prison term of life, with the possibility of parole after 20 years. The district court further ordered appellant to pay restitution in the amount of \$3,736.81.

Appellant contends that the district court erred: (1) by denying appellant's motion to suppress statements made by appellant to the police; (2) by refusing to grant a continuance so that counsel could explore the issue of appellant's competence to give a knowing, voluntary, and intelligent confession to police; and (3) by denying a continuance to allow appellant to obtain a medical expert to examine appellant.

This court has stated that an appellant may not raise challenges to events that preceded a guilty plea. "[A] guilty plea represents a break in the chain of events which has preceded it in the criminal process . . . . [A defendant] may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred

prior to the entry of the guilty plea."<sup>1</sup> Moreover, appellant did not specifically reserve the right to appeal from the adverse determination of his pretrial motions.<sup>2</sup>

Appellant argues that the issues were not waived because they should be considered as challenges to the procedure leading to the entry of the plea or as conditions that otherwise rendered the proceedings unfair.<sup>3</sup> In Franklin, this court provided an illustrative list of challenges that could be raised in a direct appeal from a judgment of conviction, pursuant to a guilty plea. This court did not say, however, that those issues could always be raised on direct appeal, but rather that they could be raised if they were "appropriate for a direct appeal."<sup>4</sup> Where an issue has been waived, it is not appropriate for direct appeal. We therefore conclude that appellant's argument is without merit.

Appellant also argues that the plea agreement is "overreaching" because it does not specifically state that appellant waives the right to appeal. The State does not argue that appellant has waived the right to appeal, only that he has waived those issues relating to events that occurred prior to the entry of the plea. The plea agreement does

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<sup>1</sup>Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (quoting Tollett v. Henderson, 411 U.S. 258, 267 (1973)).

<sup>2</sup>See NRS 174.035(3).

<sup>3</sup>See Franklin v. State, 110 Nev. 750, 877 P.2d 1058 (1994), overruled on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

<sup>4</sup>Id. at 752, 877 P.2d at 1059.

provide, regarding adverse rulings on pretrial motions, that appellant has the right to appeal

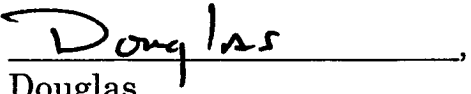
only if the State and the Court consent to my right to appeal. In the absence of such an agreement, I understand that any substantive or procedural pretrial issue or issues which could have been raised at trial are waived by my plea.

Based on the foregoing, we conclude that appellant's claims were waived when he entered his plea. Accordingly, appellant's contentions have not been preserved for review on appeal, and we

ORDER the judgment of conviction AFFIRMED.

  
Shearing, C.J.

  
Rose, J.

  
Douglas, J.

cc: Hon. Steven P. Elliott, District Judge  
Charles C. Diaz  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk