

IN THE SUPREME COURT OF THE STATE OF NEVADA

ARTHUR W. ROY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48481

FILED

NOV 08 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction. Eighth Judicial District Court, Clark County; Michael A. Cherry, Judge.

On December 18, 2006, the district court convicted appellant Arthur Roy, pursuant to a guilty plea, of two counts of lewdness with a child under the age of 14 years old. The district court sentenced him to serve two concurrent terms of life in prison with the possibility of parole in 10 years.

Roy argues on appeal that his guilty plea was not freely and voluntarily entered because he was not taking prescribed medications at the time he entered into it, and the district court erred in denying his pre-sentence motion to withdraw it.¹ Roy contends that his case should be remanded to the district court for an evidentiary hearing. We disagree.

A guilty plea is presumptively valid.² To invalidate a plea, a defendant has the burden of showing that it was not freely, knowingly,

¹Roy asserts in his reply brief that he was actually "deprived" of his prescribed medications.

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

and voluntarily entered under a totality of the circumstances.³ However, a district court may grant a pre-sentence motion to withdraw a plea for any substantial reason that is fair and just.⁴ We review a district court's denial of a motion to withdraw a guilty plea for an abuse of discretion.⁵

Our review of the plea agreement and canvass by the district court reveals that Roy entered his plea freely, knowingly, and voluntarily. Roy signed a written plea agreement, where he acknowledged that he was entering the plea voluntarily, without duress or coercion. Roy also acknowledged that he had discussed the plea with his counsel, and he believed that the plea was in his "best interest." Roy acknowledged further that he did not enter the plea while under the influence of a substance that would in any manner impair his ability to understand the agreement. A transcript of the plea canvass reveals that Roy was lucid and understood the plea. The district court explained to Roy his possible sentences and consequences of entering the plea. Roy acknowledged that he entered the plea freely and voluntarily, and that he had consulted with his counsel. The district court asked: "Have any questions regarding the negotiations?" Roy replied, "No, sir."

The record belies Roy's claim. Roy provides no evidence supporting his allegation that he was deprived prescribed medication, or he was suffering from a mental disorder that would have impaired his

³State v. Freese, 116 Nev. 1097, 1104-05, 13 P.3d 442, 447-48 (2000); Bryant, 102 Nev. at 272, 721 P.2d at 368.

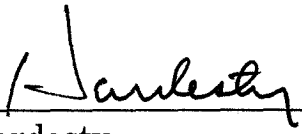
⁴State v. District Court, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969); see NRS 176.165.

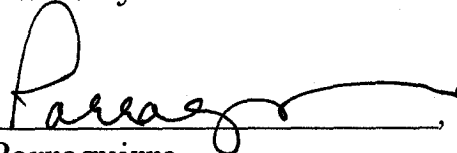
⁵Wynn v. State, 96 Nev. 673, 675, 615 P.2d 946, 947 (1980).

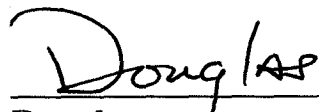
ability to validly enter the plea. His bare allegations are insufficient to warrant an evidentiary hearing.

We conclude that Roy has failed to demonstrate that the district court abused its discretion by denying his motion to withdraw his guilty plea. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 J.
Hardesty

 J.
Parraguirre

 J.
Douglas

cc: Eighth Judicial District Court Dept. 17, District Judge
Law Office of Betsy Allen
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk