

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEVON RYNELL OGLESBY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67455

FILED

JUL 14 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of two counts of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Appellant Jevon Rynell Oglesby claims the district court erred by denying his presentence motion to withdraw his guilty plea and by failing to conduct an evidentiary hearing on the matter. Oglesby argues defense counsel did not fully inform him of the criminal penalties, failed to accommodate his limited reading comprehension so he could understand the written plea agreement, and coerced him into accepting the plea agreement.

A defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and the district court may, in its discretion, grant such a motion "for any substantial, fair, and just reason." *Crawford v. State*, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001). "On appeal from a district court's denial of a motion to withdraw a guilty plea, [we] will

presume that the lower court correctly assessed the validity of the plea, and we will not reverse the lower court's determination absent a clear showing of an abuse of discretion." *Riker v. State*, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995) (internal quotation marks omitted).

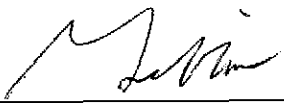
A defendant is entitled to an evidentiary hearing *only* if he "asserts specific factual allegations that are not belied or repelled by the record and that, if true, would entitle him to relief." *Nika v. State*, 124 Nev. 1272, 1301, 198 P.3d 839, 858 (2008). "We review the district court's determination that a [defendant] is not entitled to an evidentiary hearing for abuse of discretion." *Stanley v. Schriro*, 598 F.3d 612, 617 (9th Cir. 2010).


The record reveals Oglesby moved to withdraw his guilty plea based on allegations that defense counsel was ineffective and his plea was not entered knowingly and intelligently. The district court appointed a new defense counsel, and counsel filed a supplemental motion to withdraw the guilty plea. The district court heard the parties' arguments, reviewed the pleadings and the record, and made the following findings: (1) Oglesby was thoroughly and properly canvassed regarding his decision to plead guilty, and (2) the totality of Oglesby's responses to the plea canvass, his signature on the written plea agreement, the pro se documents he filed in this case, and the recordings of his jailhouse phone conversations demonstrate that he entered his plea knowingly, intelligently, and voluntarily.

We note the plea canvass transcript plainly belies any claim that Oglesby was not fully aware of the penalties for his crimes, did not understand the plea agreement, and was coerced into pleading guilty.

And we conclude the district court did not abuse its discretion by denying Oglesby's motion to withdraw his guilty plea and determining an evidentiary hearing was unwarranted. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Douglas Smith, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk