

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEFFERY MULHALL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71670-COA

FILED

FEB 13 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jeffery Mulhall appeals from a judgment of conviction, entered pursuant to a guilty plea, of establishing or possessing a financial forgery laboratory. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Mulhall claims the district court erred by denying his presentence motion to withdraw his guilty plea. A defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and “a district court may grant a defendant’s motion to withdraw his guilty plea before sentencing for any reason where permitting withdrawal would be fair and just,” *Stevenson v. State*, 131 Nev. 598, 604, 354 P.3d 1277, 1281 (2015). To this end, the Nevada Supreme Court disavowed the standard previously announced in *Crawford v. State*, 117 Nev. 718, 30 P.3d 1123 (2001), which focused exclusively on whether the plea was knowingly, voluntarily, and intelligently made, and affirmed that “the district court must consider the totality of the circumstances to determine whether permitting withdrawal


of a guilty plea before sentencing would be fair and just.” *Stevenson*, 131 Nev. at 603, 354 P.3d at 1281.

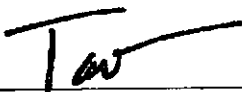
First, Mulhall claimed he had a fair and just reason to withdraw his plea because counsel failed to investigate. We conclude Mulhall failed to demonstrate this was a fair and just reason to withdraw his plea. Specifically, Mulhall failed to allege what a more thorough investigation would have found or how that information would have affected his decision to plead guilty. *See Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004). Therefore, while the district court erroneously denied this claim as improperly raised in a presentence motion to withdraw a plea, we nevertheless affirm the district court’s decision for the reason stated above. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).


Second, Mulhall claimed he had a fair and just reason for withdrawing his plea because he misunderstood the credits he would earn in prison. Similarly, he argues his plea was not knowingly and voluntarily entered because he claimed he pleaded guilty based on his belief that he would only serve 2 years and 10 months in prison based on credits he would receive toward his minimum term while in prison. The district court found that Mulhall’s belief was not reasonable based on the guilty plea and his counsel’s advice regarding the plea. We conclude substantial evidence supports the decision of the district court. *Cf. Rouse v. State*, 91 Nev. 677, 679, 541 P.2d 643, 644 (1975) (a petitioner’s mere subjective belief regarding

a potential sentence is insufficient to invalidate a guilty plea). Accordingly,
we

ORDER the judgment of the district court AFFIRMED.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Valerie Adair, District Judge
Roy L. Nelson, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk