

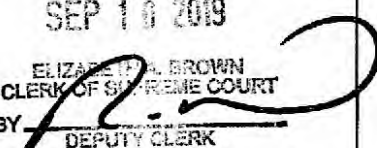
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LERROY HALL MCCOY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77279-COA

FILED

SEP 10 2019

ELIZABETH L. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE


Leroy Hall McCoy appeals from a judgment of conviction, pursuant to a guilty plea, of robbery. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

McCoy argues the district court abused its discretion by denying his presentence motion to withdraw his guilty plea. In his motion below, McCoy argued his plea was not freely, voluntarily and knowingly entered into because he signed the plea agreement and entered his guilty plea while he was under the influence of an illicit drug.

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). When determining whether permitting withdrawal would be fair and just, the district court must consider the totality of the circumstances. *Id.* at 603, 354 P.3d at 1281. We review the district court's decision on a motion to withdraw a guilty plea for an abuse of discretion. *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

The district court found that during the plea canvass McCoy was specifically asked whether he was under the influence of any narcotics or other drugs and McCoy responded he was not. The district court also found that the judge who accepted McCoy's plea<sup>1</sup> had an opportunity to evaluate McCoy in person and determined he had freely and voluntarily entered into the plea agreement. The district court then denied McCoy's motion to withdraw. The record supports the district court's findings, and we conclude the district court did not abuse its discretion by denying McCoy's motion. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Jerry A. Wiese, District Judge  
Law Offices of John P. Parris  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>The Hon. David Barker, Sr. Judge, conducted the plea canvass.