

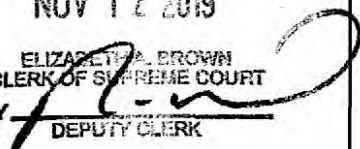
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSEPH ANTHONY ZAMUDIO, A/K/A
MARCOS A. ZAMUDIO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77455-COA

FILED

NOV 12 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Joseph Anthony Zamudio appeals from a judgment of conviction entered pursuant to a guilty plea of exploitation of an older/vulnerable person. Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

Zamudio claims the district court abused its discretion 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). The district court’s ruling on a presentence motion to withdraw a guilty plea “is discretionary and will not be reversed unless there has been a clear abuse of that discretion.” *State v. Second Judicial Dist. Court (Bernardelli)*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969).

Zamudio claimed that his guilty plea was not freely, voluntarily, and knowingly entered because “he did not fully understand the terms of his plea agreement nor was he in the right state of mind when he entered his plea.” He alleged that he did not understand the charge that he pleaded guilty to, the sentencing structure, or the fact that sentencing

was up to the district court. He asserted that his methadone withdrawal and other medical issues prevented him from understanding the plea agreement. And he argued that he would not have accepted the plea agreement and would have insisted on going to trial if he had "been in a coherent state of mind."

The district court considered the pleadings, the transcript of the plea canvass, and counsels' oral arguments before making the following findings: Zamudio did not demonstrate a fair and just reason for permitting the withdrawal of his guilty plea. He entered his guilty plea knowingly, voluntarily, and intelligently. There is no evidence his plea was coerced or made in ignorance or confusion. He read and understood the guilty plea agreement and acknowledged that sentencing was strictly up to the district court. And he did not demonstrate the withdrawal effects of methadone affected his ability to understand the guilty plea agreement or the plea canvass or rendered his guilty plea involuntary.

The record supports the district court's findings and demonstrates the district court applied the correct standard for resolving Zamudio's motion. Accordingly, we conclude the district court did not abuse its discretion by denying Zamudio's presentence motion to withdraw his guilty plea, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Gregory & Waldo, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk