

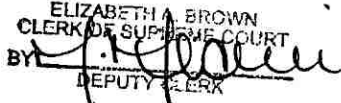
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EVANDA MAURICE JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86055-COA

FILED

NOV 14 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Evanda Maurice Jones appeals from a judgment of conviction, entered pursuant to a guilty plea, of second-degree murder. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Jones argues 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). In considering the motion, “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.” *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. *Molina v. State*, 120 Nev. 185, 191, 87 P.3d 533, 538 (2004).

In his motion and at the evidentiary hearing, Jones argued that he had a fair and just reason to withdraw his plea because he had an inadequate understanding of the consequences of his plea and the nature of

the important trial rights he was giving up.¹ Specifically, he argued that his IQ of 71, with a standard error of measurement of 68 to 76, potentially supported a diagnosis of intellectual disability, and therefore, under the totality of the circumstances, he was not able to understand the plea agreement.

At the hearing, Jones testified that he did not comprehend that he was going to have to do a minimum of 10 years in prison. He also testified that counsel did not go over the plea agreement with him line by line and did not explain that the agreement was for 10 to 25 years. However, he also testified that counsel told him 10 to 25 years but he did not understand where that was coming from.

A neuropsychologist also testified at the hearing. She stated that Jones had an IQ of 71 and, while she did not have enough information to diagnose him with an intellectual disability, given his IQ, he was probably not able to understand the plea agreement without accommodations.² The accommodations she listed included explaining the agreement in plain terms rather than in legal terms, having him repeat the terms in his own words, and breaking down the terms into smaller portions. She testified that she assumed that Jones was unable to understand the plea agreement because his IQ was unknown at the time of the guilty plea

¹We note that Jones never explained what he did not understand about his trial rights.

²She testified that, to establish an intellectual disability, a person must have (1) an IQ less than 70; (2) adaptive functioning deficits; and (3) the disability must have occurred in the developmental period (prior to age 22). She admitted that she did not have adequate information regarding his adaptive functioning deficits and whether the intellectual disability formed during his developmental period.


being entered and, thus, accommodations could not have been made. The witness did not review the change of plea hearing, nor did she talk to plea counsel to determine whether or how counsel explained the agreement to Jones.

Counsel testified that she and Jones discussed the plea agreement before it was written. They specifically discussed the sentence being 10 to 25 years, and Jones asked her to see if she could get a deal for 8 to 20 years. After receiving the written guilty plea agreement, counsel went over the plea agreement with Jones line by line and put the terms in plain English. She also broke the terms up into smaller components and made sure he understood the big picture. Finally, she answered any questions he had and would not have let him sign the agreement if he did not appear to understand it. She also made it clear that he was going to be sentenced to 10 to 25 years.

After hearing this testimony and reviewing the change of plea hearing, the district court concluded that "accommodations were made to ensure that Mr. Jones understood the nature of the consequences of his plea so this court does not find a valid basis to withdraw the plea." The record supports the decision of the district court and demonstrates that the court did consider the totality of the circumstances. Counsel testified she provided most of the accommodations listed by the neuropsychologist as being necessary for Jones to understand the plea agreement. And Jones' request to counsel to seek a lower sentence is further evidence that Jones understood that he was facing a sentence of 10 to 25 years in prison. Therefore, we conclude that Jones failed to demonstrate a fair and just reason to withdraw his plea and that the district court did not abuse its

discretion by denying Jones' presentence motion to withdraw his guilty plea. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Tierra Danielle Jones, District Judge
Oronoz & Ericsson, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk