


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CARL MARCUS GUILFORD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86123-COA

FILED

JAN 08 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Carl Marcus Guilford appeals from a judgment of conviction, entered pursuant to an *Alford*¹ plea, of first-degree murder and voluntary manslaughter. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Guilford argues 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). 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).

¹*North Carolina v. Alford*, 400 U.S. 25 (1970).

In his motion, Guilford argued that he did not understand the State being "free to argue" meant the State could ask for consecutive time. He claimed that if he had known he could be sentenced to consecutive time between his counts, he would not have pleaded guilty. He argued that his mental health issues, lengthy pre-plea confinement, and solitary confinement while in jail contributed to cognitive impairments that, when combined with the "legalese" in the guilty plea agreement, caused him to not understand that he could receive consecutive time. Further, the district court did not canvass him regarding whether he understood he could receive consecutive time.

Prior to the evidentiary hearing on the motion, Guilford provided a declaration from a psychologist that gave general information regarding Guilford's possible inability to understand the guilty plea agreement based on his mental health issues and his confinement. The declaration emphasized that the conclusions were not based on a psychological evaluation of Guilford. Rather, the conclusions in the declaration were based on general psychological research.

At the evidentiary hearing, both of Guilford's prior counsel, Monti Levy and Amanda Pellizzari, testified. They both stated they explained to Guilford that the State retained the right to argue for consecutive sentences and that they would argue for concurrent sentences. Levy testified that Guilford appeared to understand and even indicated he understood because when counsel told him the State would be asking for consecutive time, he asked for everything to be run concurrently. Further, the guilty plea agreement informed Guilford that he could receive concurrent or consecutive time, the State retained the right to argue, and that the sentence was up to the judge. Pellizzari testified that she went

through the plea agreement with Guilford line by line, explained the agreement, and Guilford appeared to understand the agreement. While the district court did not specifically question Guilford regarding the possibility of concurrent or consecutive sentences, Guilford stated he understood the guilty plea agreement and he had not been made any promises outside the guilty plea agreement.

Although the psychologist's declaration provided general information regarding Guilford's possible inability to understand the plea agreement, the totality of the circumstances demonstrates that Guilford understood he could receive either concurrent or consecutive sentences. Thus, Guilford failed to demonstrate that he did not understand the consequences of his plea such that withdrawal would be fair and just, and we conclude the district court did not abuse its discretion by denying this claim.

Guilford also claimed in his motion that he was coerced into pleading guilty. In particular, he claimed that (1) he was suffering from anxiety and post-traumatic stress disorder during the settlement conference; (2) he felt threatened when the State explained to him the consequences of going to trial; and (3) he felt threatened when the district court judge who held the settlement conference made a statement that he could get stabbed or killed in prison.²

Before the start of the settlement conference, Guilford acknowledged that his participation was voluntary. He reaffirmed during his change of plea hearing his understanding that the conference was voluntary. While Pellizzari testified that she noticed Guilford was anxious,

²The settlement conference was facilitated by a different district court judge than the one who took Guilford's change of plea and sentenced him.

she further testified that she checked in with him and he did not indicate he wanted to stop participating. Both counsel testified that they did not feel that any of the statements made by the State were threatening, and there is no indication that the stress or pressure Guilford felt went beyond that normally experienced by defendants during pretrial plea discussions. See *Stevenson*, 131 Nev. at 604, 354 P.3d at 1281 (recognizing “time constraints and pressure from interested parties exist in every criminal case”); see also *Miles v. Dorsey*, 61 F.3d 1459, 1470 (10th Cir. 1995) (“Although deadlines, mental anguish, depression, and stress are inevitable hallmarks of pretrial plea discussions, such factors considered individually or in aggregate do not establish that [a defendant’s] plea was involuntary.”).

As to the judge’s statement, Guilford failed to provide the context for this statement, including whether it was made on the first or second day of the settlement conference.³ Both counsel testified that they did not believe that the judge made any threatening statements. While Guilford testified that at one point he indicated he was not comfortable, he discussed it with counsel and agreed to go forward with the settlement conference. Further, he never indicated to the district court judge at the change of plea hearing that he did not want to proceed. And he specifically stated during the change of plea hearing that he was not coerced into entering his plea. Thus, he failed to demonstrate the statement by the judge prevented him from making a voluntary and intelligent choice among the options available such that withdrawal would be fair and just. Accordingly, we conclude the district court did not abuse its discretion by denying this claim.

³The settlement conference was held on two different days at least a week apart.

Based on the totality of the circumstances, Guilford failed to demonstrate a fair and just reason to withdraw his plea. Therefore, we conclude the district court did not abuse its discretion by denying his presentence motion to withdraw his plea. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Tierra Danielle Jones, District Judge
Monique A. McNeill
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk