

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSHUA TRAVON GRAHAM,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 89774-COA

**FILED**

JUL 30 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Joshua Travon Graham appeals from a judgment of conviction, entered pursuant to an *Alford*<sup>1</sup> plea, of attempted sexual assault and child abuse, neglect, or endangerment. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Graham argues the district court abused its discretion by denying his presentence motion to withdraw his plea. A defendant may move to withdraw a guilty plea before sentencing, NRS 176.165, and a district court may grant such a motion “for any reason where permitting withdrawal would be fair and just,” *Stevenson v. State*, 131 Nev. 598, 604, 354 P.3d 1277, 1281 (2015). “[T]he 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 give deference to the district court’s factual findings if they are

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<sup>1</sup>*North Carolina v. Alford*, 400 U.S. 25 (1970). We note that an *Alford* plea is equivalent to a guilty plea insofar as how the court treats a defendant. *State v. Lewis*, 124 Nev. 132, 133 n.1, 178 P.3d 146, 147 n.1 (2008), *overruled on other grounds by State v. Harris*, 131 Nev. 551, 556, 355 P.3d 791, 793-94 (2015).

supported by the record. *Id.* at 604, 354 P.3d at 1281. 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 Jud. Dist. Ct. (Bernardelli)*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969); see *State v. Smith*, 131 Nev. 628, 630, 356 P.3d 1092, 1094 (2015) ("An abuse of discretion occurs if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason." (quotation marks omitted)).

In his motion, Graham claimed he had a fair and just reason to withdraw his plea because he was coerced into taking the plea deal. In particular, Graham contended that counsel and an investigator pressured him into taking the plea deal and that he was forced into taking the plea deal to help his codefendant with her case, as the plea deal was contingent upon both parties accepting the deal. The district court held an evidentiary hearing on the motion. The district court found that (1) counsel and the investigator did not pressure Graham into taking the plea deal; (2) although Graham told counsel that he was innocent and that he wanted to go to trial, he faced a multitude of charges and ultimately agreed to take the deal to avoid the possibility of a harsher sentence if he were to lose at trial; (3) the settlement conference held in this matter lasted several hours, and Graham had at least an hour to think about the deal; and (4) Graham participated in the settlement conference and entered his plea voluntarily. The district court's findings are supported by the record.

Graham was initially charged with four counts of sexual assault of a minor under 14 years of age and three counts of lewdness with a child under the age of 14. After a settlement conference, Graham pleaded guilty,

pursuant to *Alford*, to one count of attempted sexual assault and one count of child abuse, neglect, or endangerment.

Counsel testified that Graham stated multiple times he wanted to go to trial but that Graham ultimately decided to take the plea deal after “a lot of discussion about what could happen at trial if he were to be found guilty.” Counsel testified that Graham’s sentencing exposure was extreme in light of the several counts of sexual assault of a minor under 14 years of age. Counsel testified that Graham discussed the negotiations with his codefendant and that they agreed “together that this was best for both of them.” Counsel further testified that neither Graham’s codefendant nor codefendant’s counsel pressured Graham into taking the deal and that she believed Graham understood the plea agreement and the consequences of entering his plea. The investigator also testified that he did not pressure Graham into accepting the plea deal.


The plea agreement and plea canvass also indicate Graham (1) entered his plea to avoid the possibility of a harsher penalty if he were convicted of the original charges at trial; (2) believed that the plea deal was in his best interest and that a trial would be contrary to his best interest; (3) participated in the settlement conference and entered his plea voluntarily; (4) was satisfied with counsel’s representation and advice; and (5) understood everything contained in the plea agreement as well as the consequences of entering his plea.

A guilty plea is presumptively valid, and “[a] thorough plea canvass coupled with a detailed, consistent, written plea agreement supports a finding that the defendant entered the plea voluntarily, knowingly, and intelligently.” *Molina v. State*, 120 Nev. 185, 190-91, 87 P.3d 533, 537-38 (2004) (quotation marks omitted). Moreover, a guilty plea

is not coerced simply because counsel advises a defendant that a plea deal is in their best interest, *see Stevenson*, 131 Nev. at 604, 354 P.3d at 1281 (stating “undue coercion occurs when a defendant is induced by promises or threats which deprive the plea of the nature of a voluntary act” (internal quotation marks omitted)); *Dezzani v. Kern & Assocs., Ltd.*, 134 Nev. 61, 69, 412 P.3d 56, 62 (2018) (noting that one of the roles of an attorney is to provide candid advice to their client), or because the defendant is “motivated by a desire to avoid the possibility of a higher penalty,” *Whitman v. Warden*, 90 Nev. 434, 436, 529 P.2d 792, 793 (1974). In light of the district court’s findings, Graham failed to overcome the presumption that his plea was validly entered, and the district court reasonably concluded that Graham failed to present a fair and just reason for withdrawing his plea. Therefore, the district court did not abuse its discretion in denying his presentence motion to withdraw his plea. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: The Draskovich Law Group  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk