

IN THE SUPREME COURT OF THE STATE OF NEVADA

NORMAN KEITH FLOWERS A/K/A
NORMAN HAROLD FLOWERS, III,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

No. 53159

NORMAN HAROLD FLOWERS, III,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

No. 55759

FILED

JUL 09 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER REINSTATING APPEAL

Appellant has moved to reinstate these consolidated appeals from a judgment of conviction and an order denying a new trial, pointing out that their September 28, 2011, voluntary dismissal was the result of a plea agreement in another case that he was recently allowed to withdraw due to coercion. The State opposes the motion, asserting that appellant waived the right to appeal and that it would be prejudiced by the passage of time and events since the judgment was rendered.¹

Appeal rights may be waived by valid and enforceable plea bargains that are knowingly and voluntarily made. *Blalark v. State*, 112 Nev. 795, 796, 918 P.2d 1314, 1315 (1996). Here, however, the plea agreement has been invalidated as coercive, and thus, appellant did not

¹Appellant's motion for an extension of time to file a reply to the opposition is granted; the clerk of this court shall file the reply provisionally received in this court on May 11, 2018.

knowingly and voluntarily waive his rights to appeal in these cases. See generally *United States v. Henderson*, 72 F.3d 463, 465 (5th Cir. 1995) (appeal not precluded by waiver when challenging the denial of a motion to withdraw the plea based on ineffective assistance of counsel); *United States v. Puentes-Hurtado*, 794 F.3d 1278, 1284 (11th Cir. 2015) (“[A]n appeal waiver or collateral attack waiver which is part of a guilty plea is unenforceable if the plea itself is involuntary or unintelligent.”). Further, the appeals have been fully briefed and argued. Accordingly, under the very narrow circumstances presented here, we grant appellant’s motion and hereby reinstate these appeals.

It is so ORDERED.

Cherry J.
Cherry

Gibbons J.
Gibbons

Pickering J.
Pickering

cc: Federal Public Defender/Las Vegas
Clark County District Attorney
Eighth District Court Clerk