

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DORIE REGINA HENLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83546-COA

FILED

JUN 13 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Dorie Regina Henley appeals from a judgment of conviction entered pursuant to a guilty plea of second-degree murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Cristina D. Silva, Judge.

Henley argues the district court erred by denying her presentence motion to withdraw 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 [her] 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. 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).

First, Henley claimed she should be permitted to withdraw her plea because her trial-level counsel did not inform her of two prior plea offers. Henley asserted that those plea offers would have resulted in her receiving a shorter prison sentence than the offer that she ultimately accepted. At the evidentiary hearing concerning Henley's motion, trial-level counsel testified that she conveyed every offer she received to Henley. Counsel testified that Henley rejected the initial plea offers because Henley hoped to avoid a life sentence. The district court concluded that counsel's testimony was credible, and the record supports that decision. Therefore, we conclude that the district court did not err by denying this claim.

Second, Henley claimed she should be permitted to withdraw her plea because she was not fully advised of evidence supporting her defense prior to entry of her plea. Henley contended that she was not advised concerning the detailed information that a witness gave to her counsel's investigator and that information would have supported her assertion that she participated in the robbery under duress. At the evidentiary hearing, counsel testified that she discussed the contents of the relevant interview with Henley on multiple occasions prior to entry of Henley's guilty plea. Counsel stated that she detailed what the witness stated and discussed with Henley how that information may support her defense. The district court concluded that the evidence presented at the evidentiary hearing demonstrated that Henley knew of the information contained within the witness' statement well before entry of her guilty plea. The record supports the district court's decision. Therefore, we conclude the district court did not err by denying this claim.

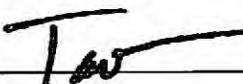
Third, Henley claimed that she should be permitted to withdraw her plea because she did not have sufficient time to consider the

plea offer that she ultimately accepted. At the evidentiary hearing, counsel testified that she and Henley had numerous discussions over a long period of time regarding plea negotiations with the State. Counsel stated that Henley ultimately participated in a very long settlement conference with the State and the State conveyed a plea offer during that conference. Counsel testified that after the State presented the plea offer, she discussed the offer with Henley and Henley decided to accept it rather than face a longer sentence following a trial. In addition, at the plea canvass Henley informed the district court that she reviewed the plea agreement with her counsel and she understood everything contained within the agreement. Based on the record, the district court found that Henley had sufficient time to consider the plea offer. The record supports the district court's decision. Therefore, we conclude that the district court did not err by denying this claim.

For those reasons, the district court found Henley failed to demonstrate a fair and just reason to permit withdrawal of her guilty plea and denied her motion. In light of the circumstances in this matter, we conclude Henley did not demonstrate the district court abused its discretion by denying her motion to withdraw her guilty plea. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 9
Gaffney Law
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk