

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

ISIAH TAYLOR,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 83709

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**APPELLANT'S OPENING BRIEF**

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**NRAP 26.1 DISCLOSURE**

The undersigned counsel of record certifies that the following are persons and entries as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualifications or recusal.

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## **JURISDICTIONAL STATEMENT**

### **A. Basis for Supreme Court's or Court of Appeal's Jurisdiction:**

This appeal is from a Judgment of Conviction via a Guilty Plea Agreement, which was filed on, and appellate jurisdiction in this case derives from Nevada Rules of Appellate Procedure (4)(b), and NRS 177.015(3)-(4). AA 010.

### **B. The Filing Dates Establishing the Timeliness of the Appeal:**

Judgment of Conviction Filed: 10/21/2021

Notice of Appeal Filed: 10/25/2021

### **C. Assertion that Appeal is From a Final Order or Judgment:**

This Appeal is from a Judgment of Conviction in a Criminal Matter; thus, jurisdiction is proper before this Court.

## **ROUTING STATEMENT**

This appeal is appropriately assigned to the Court of Appeals pursuant to NRAP 17(b)(1) because it is a direct appeal from a judgment of conviction based on a guilty plea agreement.

### **STATEMENT OF ISSUES PRESENTED FOR REVIEW**

- I. DID THE DISTRICT COURT ERR IN DENYING THE MOTION TO WITHDRAW THE GUILTY PLEA?**
- II. DID THE DISTRICT COURT ERR IN NOT HOLDING AN EVIDENTIARY HEARING?**

### **STATEMENT OF THE CASE**

The Appellant, ISIAH TAYLOR, (hereinafter “Taylor”), entered an Alford plea to two counts of Attempt Sexual Assault. AA20 The parties stipulated to a sentence of four to twenty years in the Nevada Department of Corrections. AA20. Prior to sentencing, the defendant filed a motion to withdraw his plea. AA30. The defendant also filed a motion for new counsel. AA38. The court denied the motion to withdraw the plea. AA63.

### **STATEMENT OF FACTS**

On June 4, 2021, Taylor plead pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970) to two counts of attempt sexual assault, a B felony. AA10. According to the guilty plea agreement, both parties stipulated to a sentence of four to twenty years in prison. AA10.

On July 1, 2021, the defendant filed a motion to withdraw the guilty plea. AA30. That motion contained an exhibit which was a handwritten motion written by Taylor indicating that he wanted to withdraw his plea and he had recently obtained paperwork that led him to believe the State had enough evidence to convict him at trial. AA33-35. Taylor also filed a motion for new counsel on July 7, 2021. AA38. In that motion, Taylor indicated that he felt rushed into taking his deal and that he felt that his counsel was not willing to defend him at a trial. AA39.

On August 23, 2021, new counsel for Taylor filed a Motion to Withdraw Plea noting that Taylor was not in the “right frame of mind” when he entered his plea, as Taylor had taken medication the night before entry of plea and was drowsy and confused, and did not understand what was going on. AA44-45. Taylor believed that he was stipulating to probation. AA45. Taylor did not have a physical copy of the guilty plea agreement at the time he entered his plea. AA45.

### **SUMMARY OF ARGUMENT**

The district court abused its discretion in denying the motion to withdraw the guilty plea, and by not holding an evidentiary hearing.

### **ARGUMENT**

#### **I. THE DISTRICT COURT ABUSED ITS DISCRETION BY DENYING THE MOTION TO WITHDRAW THE PLEA**

**Standard of Review:** This Court reviews a district court's denial of a motion to withdraw a guilty plea for an abuse of discretion. See *Hubbard v. State*, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994) (reviewing the district court's denial of a motion to withdraw guilty plea for an abuse of discretion).

In Nevada, a district court may grant a defendant's pre-conviction motion to withdraw a guilty plea for any "substantial reason" if it is "fair and just." *Woods v. State*, 114 Nev. 468, 475, 958 P. 2d 91, 95 (1998) (citing *State v. District Court*, 85 Nev. 381, 385, 455 P.2d 923, 926 (1969)). See also *Stevenson v. State*, 131 Nev. \_\_\_, \_\_\_, 354 P.3d 1277, 1281 (2015). To determine whether the defendant advances a substantial, fair, and just reason to withdraw a guilty plea, the district court must consider the totality of the circumstances surrounding the defendant's plea. *Woods*, 114 Nev. at 475, 958 P. 2d at 95-96 (1998). In *Stevenson v. State*, the Nevada Supreme Court noted that fair and just reasons include reasons such as a defendant establishing that there are "circumstances which might lead a jury to refuse to convict, notwithstanding technical guilt," or the defendants becoming aware of some collateral consequences. *Id.*

A criminal defendant may withdraw his guilty plea if, under the totality of the circumstances, the court finds that he did not enter that plea voluntarily, knowingly, and intelligently. *Woods*, 114 Nev. at 475, 958 P.2d at 95-96 (1998); *Crawford v. State*, 117 Nev. 718, 722, 30 P. 3d 1123, 1125-26 (2001); *Baal v.*



*State*, 106 Nev. 69, 787 P.2d 391 (1990). The guidelines for voluntariness of guilty pleas require that the record affirmatively show that the defendant entered his plea understandingly and voluntarily. See *Heffley v. Warden*, 89 Nev. 573, 574, 516 P.2d 1403, 1404 (1973). A “knowing” plea is one entered into with a full understanding of the nature of the charge and all the consequences of the plea. *Boykin v. Alabama*, 395 US 238 (1969) Moreover, a plea agreement is construed according to what the defendant reasonably understood when he entered the plea. *Statz v. State*, 113 Nev. 987, 993, 944 P.2d 813, 817 (1997).

A defendant who enters a guilty plea based on the advice of counsel may withdraw his plea by demonstrating that counsel performed ineffectively. *Nollette v. State*, 118 Nev. 341, 348-49, 46 P.3d 87, 92 (2002); *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984). A defendant is entitled to an evidentiary hearing on any claims that are not belied by the record. *Byford v. State*, 123 Nev. 67, 68-69, 156 P.3d 691, 692 (2007).

In this case, Taylor told the court at the motion hearing that he was on medication and had did not know what was happening when he entered his plea. AA64. He told the court that he just “went with what was said.” AA63. This cannot be a knowing and intelligent plea, with Taylor under the influence of medications. Here, Taylor asserted that he did not understand that terms of the guilty plea agreement at the time he entered his plea, and therefore his plea was not

knowing or intelligently made. Not understanding key terms, and being confused about whether one would be getting probation or going to prison is a crucial distinction. Taylor indicated almost immediately after he entered his plea that he was completely confused about the plea, did not think the State had enough evidence to convict him, and did not trust his lawyer. He further stated he was taking medications that made him unable to understand the proceedings.

The district court noted that Taylor did not tell the court during the plea canvass that he was under the influence of any medication. AA64. However, Taylor asserts that he was no coherent, and was simply answering questions. The plea canvass is not a valid measure of Taylor's understanding. The district court abused its discretion when it did not allow Taylor to withdraw his plea.

## **II. THE DISTRICT COURT ABUSED ITS DISCRETION BY NOT HAVING AN EVIDENTIARY HEARING ON THE MOTION TO WITHDRAW THE PLEA**

**Standard of Review:** This Court reviews a lower court's decision to deny an evidentiary hearing for an abuse of discretion. *See Hargrove v. State*, 100 Nev. 498, 686 P.2d 222 (1984).

The district court abused its discretion by denying Taylor's motion to withdraw his guilty plea without first conducting an evidentiary hearing. "District courts may grant a motion to withdraw a guilty plea prior to sentencing for any

substantial, fair, and just reason.” *Crawford v. State*, 117 Nev. 718, 721, 30 P.3d 1123, 1125 (2001). See also NRS 176.165. In considering whether a defendant has “advanced a substantial, fair, and just reason to withdraw a [guilty] plea, the district court must consider the totality of the circumstances to determine whether the defendant entered the plea voluntarily, knowingly, and intelligently.” *Crawford*, 117 Nev. 718, 722, 30 P.3d at 1125-26. A defendant who makes specific factual allegations that, if true and if not belied by the record, would entitle him to relief is entitled to an evidentiary hearing on his motion to withdraw his guilty plea. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

In this case, due to the nature of Taylor’s allegations that he was taking medications that caused him to be in a state of confusion. The district court should have set a hearing at which time Taylor’s counsel could have presented documentation from the jail showing what medication Taylor was taking, and presented testimony regarding how that medication may affect a person. Because the district court did not delve into Taylor’s mental state to fully develop the record, the court made a decision based solely on the transcript of the plea entry. If Taylor was simply answering questions because he was feeling disoriented or confused, his answers at the plea canvass are meaningless. Therefore, the court should have held a hearing.

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## **CONCLUSION**

The district court abused its discretion in denying the motion to withdraw the plea, and in failing to hold an evidentiary hearing. Taylor asks that this Court reverse his conviction.

Respectfully submitted,

By: /s/Monique McNeill  
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## **CERTIFICATE OF COMPLIANCE**

1. I hereby certify that this brief complies with the formatting requirement of NRAP 32(a)(4), the typeface requirement of NRAP 32(a)(5) and the type style requirement of NRAP 32(a)(6) because:

X This brief has been prepared in a monospaced typeface using Word with Times New Roman, 14 point, which does not contain more than 10 ½ characters per inch.

2. This brief does not exceed the page or type limitations found in NRAP32(a)(7) because it contains 2154 words.
3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief complies with all applicable

Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires that every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanction in the event that the accompanying brief is not in conformity with requirements of the Nevada Rules of Appellate Procedure.

Dated this 27<sup>th</sup> day of January, 2022.

/s/Monique McNeill

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### **CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 27<sup>th</sup> day of January, 2022. via Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

MONIQUE MCNEILL STEVEN WOLFSON

I further certify that I served a copy of this document, via United States Postal Service to ISIAH TAYLOR at the Nevada Department of Corrections.

Dated this 27th day of January, 2022.

/s/Monique McNeill  
Monique McNeill