

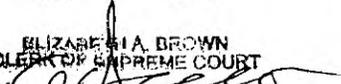
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GLORIA ESTELLA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83905-COA

FILED

SEP 14 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Gloria Estella appeals from a judgment of conviction, entered pursuant to guilty plea, of driving under the influence resulting in death. Eighth Judicial District Court, Clark County; Cristina D. Silva, Judge.

Estella argues the district court abused its discretion by denying her presentence motion to withdraw her guilty plea without first conducting an evidentiary hearing. 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.

We give deference to the district court’s factual findings as long as they are 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 Judicial Dist. Court (Bernardelli)*, 85

Nev. 381, 385, 455 P.2d 923, 926 (1969). To warrant an evidentiary hearing, a defendant must raise claims supported by specific factual allegations that are not belied by the record and, if true, would entitle her to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

First, Estella argued that she should be allowed to withdraw her plea because she is a non-English speaker and did not understand the plea negotiations. Specifically, Estella claimed she did not understand that she was agreeing to a set amount of prison time rather than a range of punishment. Estella entered her plea with the assistance of a Spanish-language interpreter. During her plea canvass, Estella stated that she had no problems understanding the interpreter, that the written plea agreement was translated or read to her in Spanish, and that she had no questions about it. The written plea agreement, which was signed by Estella's counsel at the direction of Estella, explicitly provided that the parties were stipulating to a prison sentence of 3 to 8 years, stated that Estella had not been promised any particular sentence or that the court was obligated to accept the punishment recommended, and set forth the range of punishment for the offense. Estella further stated during the canvass that she understood the parties were stipulating to a prison sentence of 3 to 8 years, that the potential penalty for the offense was 2 to 20 years, and that the sentencing decision was ultimately up to the district court. Estella thus failed to demonstrate she did not understand the prison sentence she agreed to or the plea negotiations.

Second, Estella argued that she should be allowed to withdraw her plea because she did not review any defenses with counsel. The written plea agreement stated that Estella and her attorney discussed any possible defenses, defense strategies, and circumstances which might be in Estella's

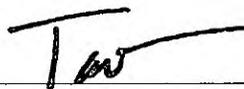
favor. And Estella failed to explain what defenses were not discussed. Estella thus failed to demonstrate she did not discuss any defenses with counsel.

Finally, Estella argued that the fact that the plea agreement was signed by her counsel weighed in favor of withdrawal. The district court canvassed Estella on this issue, and she stated she knowingly, willing, and intentionally directed counsel to sign on her behalf with the understanding that doing so bound her as if she herself had signed it. Estella thus failed to demonstrate that the fact that the plea agreement was signed by her counsel weighed in favor of withdrawal.

In light of the totality of the circumstances in this matter, Estella failed to demonstrate a fair and just reason to permit withdrawal of her guilty plea. Therefore, we conclude Estella did not demonstrate the district court abused its discretion by denying her motion to withdraw her guilty plea without first conducting an evidentiary hearing, and 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 Nine  
Mueller & Associates  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk