

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION	
	)	(Not For Official Publication)	
Plaintiff and Appellee,	)	Case No. 20070372-CA	
	)		
v.	)	F I L E D	
	)	(August 7, 2008)	
Olivio Rayas,	)		
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Defendant and Appellant.	)		

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Third District, Salt Lake Department, 061907215  
The Honorable William W. Barrett

Attorneys: Margaret P. Lindsay, Orem, and Patrick V. Lindsay,  
            Provo, for Appellant  
            Mark L. Shurtleff and Brett J. Delporto, Salt Lake  
            City, for Appellee

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Before Judges Greenwood, Thorne, and Billings.

PER CURIAM:

Olivio Rayas appeals the district court's order denying his motion to withdraw his plea. We affirm.

"The denial of a motion to withdraw a guilty plea is reviewed under an abuse of discretion standard, incorporating a clearly erroneous standard for findings of fact made in conjunction with that decision." State v. Martinez, 2001 UT 12, ¶ 14, 26 P.3d 203. However, the question of whether the district court "strictly complied with the constitutional and procedural requirements for entry of a guilty plea is a question of law" that is reviewed for correctness. Id.

Rayas asserts that the court erred in denying his motion to withdraw his plea because his guilty plea was not knowingly and voluntarily made. Specifically, Rayas claims that he did not understand the mandatory but indeterminate nature of his potential sentence when he entered his plea. The record demonstrates that during his plea hearing Rayas made several inquiries concerning his potential sentence of six-years to life. These inquiries focused on whether he could spend his entire life in prison and his belief that such a sentence was too long. The

court responded to Rayas's inquiries by carefully explaining what an indeterminate sentence was, the potential duration of the sentence he could receive, and the role of the Board of Pardons in determining when Rayas would be released. After responding to all of Rayas's inquiries, the district court explained to Rayas that he did not have to sign the plea agreement; instead, he could contest the charges and proceed to trial. After hearing the district court's explanation of the nature of an indeterminate sentence, which clearly informed Rayas of the nature of the potential sentence he could receive, Rayas signed the plea agreement and entered his plea of guilty. Under the totality of the circumstances, we cannot conclude that the district court abused its discretion in finding that the plea was entered knowingly and voluntarily, and, as a result, in denying Rayas's motion to withdraw his plea.

Affirmed.

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Pamela T. Greenwood,  
Presiding Judge

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William A. Thorne Jr.,  
Associate Presiding Judge

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Judith M. Billings, Judge