

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20040908-CA
v.)	
)	F I L E D
Roy Dean Taylor,)	(August 18, 2005)
)	
Defendant and Appellant.)	2005 UT App 357

Eighth District, Duchesne Department, 041800135
The Honorable A. Lynn Payne

Attorneys: Julie George, Salt Lake City, for Appellant
 Stephen D. Foote and Karen Allen, Duchesne, for
 Appellee

Before Judges Billings, Bench, and McHugh.

PER CURIAM:

Roy Dean Taylor appeals his conviction and sentence for possession of a weapon by a restricted person, a class A misdemeanor. See Utah Code Ann. § 76-10-503(2)(b) (2003).

Taylor did not file a timely motion to withdraw his guilty plea. Nevertheless, he seeks to challenge the validity of the plea on appeal, contending that his trial counsel was ineffective in advising him. Failure to file a timely motion to withdraw a guilty plea "extinguishes a defendant's right to challenge the validity of the guilty plea on appeal," State v. Reyes, 2002 UT 13, ¶3, 40 P.3d 630, including any right to challenge the guilty plea on the basis of ineffective assistance of counsel. See State v. Melo, 2001 UT App 392, ¶8, 40 P.3d 646. Because Taylor failed to file a timely motion to withdraw his guilty plea, this court lacks jurisdiction to consider the claim that his guilty plea was not voluntary as a result of ineffective assistance of trial counsel.

Taylor also appeals from the sentence entered by the trial court. "A sentence will not be overturned on appeal unless the trial court has abused its discretion, failed to consider all legally relevant factors, or imposed a sentence that exceeds

legally prescribed limits." State v. Nuttall, 861 P.2d 454, 456 (Utah Ct. App. 1993). "'The exercise of discretion in sentencing necessarily reflects the personal judgment of the court and the appellate court can properly find abuse only if it can be said that no reasonable [person] would take the view adopted by the trial court.'" Id. (alteration in original) (quoting State v. Gerrard, 584 P.2d 885, 887 (Utah 1978)).

Taylor fails to provide a reason for overturning his sentence. Instead, Taylor asserts that he was unable to present certain mitigating information at the time of his sentence and argues without support that "had he been able to present the information timely . . . the trial court would not have sent him to jail." This court must "defer to the trial court's judgment absent a showing by defendant that the trial court failed to consider the appropriate factors." State v. Helms, 2002 UT 12, ¶15, 40 P.3d 626. Therefore, we affirm the sentence entered by the trial court.

In conclusion, we dismiss this appeal for lack of jurisdiction insofar as it challenges the validity of Taylor's guilty plea. We affirm Taylor's sentence.

Judith M. Billings,
Presiding Judge

Russell W. Bench,
Associate Presiding Judge

Carolyn B. McHugh, Judge