

IN THE SUPREME COURT OF THE STATE OF NEVADA

MITCHEL PHILLIPS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 38794

FILED

FEB 04 2003

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order denying a motion to withdraw a plea of no contest to one count of failure to maintain adequate records, a gross misdemeanor Medicaid offense.<sup>1</sup> Appellant, Dr. Mitchel Phillips, moved to withdraw his plea post-sentencing, claiming his attorney misinformed him as to the possible consequences of his plea. The district court denied Dr. Phillips' motion to withdraw his plea.

Dr. Phillips argues on appeal that the district court should allow him to withdraw his plea under NRS 176.165<sup>2</sup> because he has suffered manifest injustice as a result of unforeseen and grossly disproportionate consequences from that plea.

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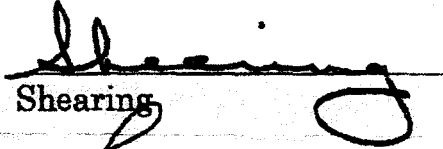
<sup>1</sup>NRS 422.570(1).

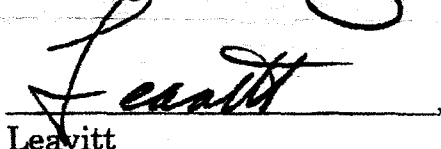
<sup>2</sup>NRS 176.165 states:

Except as otherwise provided in this section, a motion to withdraw a plea of guilty, guilty but mentally ill or nolo contendere may be made only before sentence is imposed or imposition of sentence is suspended. To correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his plea.

We agree. It would be manifestly unjust not to allow Dr. Phillips to withdraw his plea in light of the unforeseen consequences suffered as a result of that plea. Therefore, we

ORDER this matter REVERSED and REMANDED WITH INSTRUCTIONS to the district court to permit Dr. Phillips to withdraw his plea.

  
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Shearing J.

  
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Leavitt J.

  
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Becker J.

cc: Hon. Kathy A. Hardcastle, District Judge  
William B. Terry  
Attorney General/Las Vegas  
Clark County District Attorney  
Neeman, Mills & Palacios, Ltd.  
Clark County Clerk