

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

CARLOS KEITH BROWN,
Defendant-Appellant.

No. 01-4684

Appeal from the United States District Court
for the Southern District of West Virginia, at Beckley.
David A. Faber, District Judge.
(CR-01-5)

Submitted: January 14, 2002

Decided: February 7, 2002

Before MICHAEL, TRAXLER, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Mary Lou Newberger, Acting Federal Public Defender, Brian J. Kornbrath, Assistant Federal Public Defender, Charleston, West Virginia, for Appellant. Kasey Warner, United States Attorney, John L. File, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Carlos Keith Brown pled guilty to possessing a firearm after having been convicted of a misdemeanor crime of domestic violence in violation of 18 U.S.C.A. §§ 922(g)(9), 924(a)(2) (West 2000). He subsequently moved to withdraw his guilty plea upon the basis that his plea was not knowing and voluntary and he had a credible legal defense supporting his claim of innocence. After an evidentiary hearing, the district court denied the motion. We affirm.

We review the district court's denial of a motion to withdraw a guilty plea for abuse of discretion. *United States v. Moore*, 931 F.2d 245, 248 (4th Cir. 1991). Rule 32(e) of the Federal Rules of Criminal Procedure allows a plea to be withdrawn for a "fair and just reason." An appropriately conducted Rule 11 proceeding raises a strong presumption that the plea is final and binding. *United States v. Puckett*, 61 F.3d 1092, 1099 (4th Cir. 1995). Brown bears the burden of showing a fair and just reason to grant his motion. *United States v. Uba-kanna*, 215 F.3d 421, 423 (4th Cir. 2000).

We find that Brown failed to show a fair and just reason to withdraw his guilty plea. The Rule 11 proceeding was properly conducted and Brown's guilty plea knowing and voluntary. We further find Brown's claim of legal innocence fails. In addition, Brown does not challenge the competency of his counsel. Because these factors weigh towards denying Brown his motion to withdraw his guilty plea, we find the court did not abuse its discretion. *See United States v. Sparks*, 67 F.3d 1145, 1154 (4th Cir. 1995).

Accordingly, we affirm the conviction and sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED