

IN THE SUPREME COURT, STATE OF WYOMING

2010 WY 19

OCTOBER TERM, A.D. 2009

February 24, 2010

FRANK HAROLD WEBER,

Appellant
(Defendant),

v.

THE STATE OF WYOMING,

Appellee
(Plaintiff).

No. S-09-0150

*Appeal from the District Court of Fremont County
The Honorable Norman E. Young, Judge*

Representing Appellant:

Diane M. Lozano, State Public Defender; Tina N. Kerin, Appellate Counsel.
Argument by Ms. Kerin.

Representing Appellee:

Bruce A Salzburg, Wyoming Attorney General; Terry L. Armitage, Deputy
Attorney General; D. Michael Pauling, Senior Assistant Attorney General; Leda
M. Pojman, Senior Assistant Attorney General. Argument by Ms. Pojman.

Before VOIGT, C.J., and GOLDEN, HILL, KITE, and BURKE, JJ.

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VOIGT, Chief Justice.

[¶1] The State conceded at oral argument that this case must be remanded to the district court for the purpose of allowing the appellant to withdraw his conditional no contest plea, and to plead anew. A conditional plea under W.R.Cr.P. 11(a)(2) may not be utilized to reserve argument on non-dispositive matters. *Walters v. State*, 2008 WY 159, ¶¶ 16-23, 197 P.3d 1273, 1278-79 (Wyo. 2008). The appellant's motion seeking to prevent the admission of uncharged misconduct evidence under W.R.E. 404(b) was not a dispositive motion. We will not resolve other issues raised by the appellant because such issues may not survive in their current form, making any such resolution advisory in nature.

[¶2] Reversed and remanded for further proceedings consistent with this opinion.